

UTDPP1086

Export Compliance Policy

Policy Statement

1.0 Policy

The University of Texas at Dallas (UT Dallas, University) will conduct its teaching, research, and service activities in compliance with all export control laws and regulations, including those promulgated by the Department of Commerce, through its Export Administration Regulations ("EAR"), the Department of State, through its International Traffic in Arms Regulations ("ITAR"), and the Department of Treasury, through the Office of Foreign Assets Control ("OFAC"). UT Dallas and its employees are required to comply with export control laws and regulations as well as this policy, including any associated procedures implemented by UT Dallas to ensure compliance. This policy applies to all activities in which UT Dallas resources are used.

This policy supports UT Dallas compliance with export control laws and regulations issued for reasons of national security, foreign policy, and/or competitive trade reasons affecting the export, or deemed export, of certain items, technologies, software, and services. Export control laws and regulations may impose requirements on University teaching, research, or service activities, including but not limited to: transferring materials, data, technology or equipment subject to export control laws or regulations to a foreign national, either in the United States (U.S.) or abroad; allowing foreign nationals to participate in export controlled research; traveling to sanctioned countries; conducting business with restricted persons and entities; shipping export controlled items outside the U.S.; and traveling with export controlled items outside the U.S..

2.0 Explanation of Terms

2.1 Deemed export: Any release of controlled technology or source code, subject to the EAR, to a foreign person in the U.S. is "deemed" to be an export to the person's country or countries of

nationality. This deemed export rule does not apply to persons lawfully admitted for permanent residence in the U.S. and does not apply to persons who are protected individuals under the Immigration and Naturalization Act. Refer to section 734.13 of the EAR (15 C.F.R. 734.13). A “deemed” export situation can occur by access/use in research or training, visual inspection, or an oral exchange of information.

2.2 Employees: All UT Dallas employees, full-time and part-time, including student employees, consultants, visitors and others using UT Dallas resources.

2.3 Empowered Official (EO): A U.S. citizen who is legally empowered in writing by UT Dallas to sign export license applications or other requests for approval on behalf of the institution. The EO must understand the provisions and requirements of the various export control statutes and regulations, as well as the criminal liability, civil liability and administrative penalties for violating the regulations. The EO has the independent authority to inquire about any aspect of a proposed export, to verify the legality of the transaction and the accuracy of the information to be submitted, and to refuse to sign a license application or other request for approval without prejudice or other adverse recourse. If ITAR-controlled work which requires a license is to be conducted, UT Dallas must first register with the Department of State before an EO can be appointed.

2.4 Export Administration Regulations (EAR): Regulations implemented by the U.S. Department of Commerce which control the export of dual-use technologies (i.e., items used, or have the potential to be used for both military and commercial purposes that could adversely affect national security if exported).

2.5 Export Controls Officer (ECO): A person who is identified formally at UT Dallas for purposes of institutional compliance with export control regulations.

2.6 Fundamental Research: Basic or applied research in science and engineering performed or conducted at an accredited institution of higher learning in the U.S. in which the resulting information is ordinarily published and shared broadly in the scientific community. Fundamental research is distinguished from research that results in information that is restricted for proprietary or national security reasons or pursuant to specific U.S. government access and dissemination controls (ITAR), or that is restricted for proprietary reasons or specific national security controls (EAR). **In other words, university research will not be considered fundamental research if:**

1. The university or its researchers accept restrictions on the publication of the results of the project or activity (EAR and ITAR);
2. The sponsor requires prior approval before publication of the results of the project (EAR and ITAR), or;

3. The research is funded by the U.S. government, and specific access and dissemination controls protecting information resulting from the research are applicable (ITAR).

Other restrictions, such as foreign national approval or a requirement that no foreign nationals work on a project, could invalidate the fundamental research exclusion.

2.7 International Traffic in Arms Regulations (ITAR): Regulations implemented by the U.S. Department of State to regulate military or defense-related articles, technologies, and services.

2.8 Office of Foreign Asset Control (OFAC) Sanctions: A department of the U.S. Treasury that enforces economic and trade sanctions against countries and groups of individuals involved in terrorism, narcotics, and other disreputable activities.

2.9 Public Domain as defined by EAR: Published Information and Software. Information is "published" when it becomes generally accessible to the interested public in any form, including but not limited to:

1. publication in periodicals, books, print, electronic, or any other media available for general distribution to any member of the public or to a community of persons interested in the subject matter, such as those in a scientific or engineering discipline, either free or at a price that does not exceed the cost of reproduction and distribution;
2. being readily available at libraries open to the public or at university libraries;
3. when issued patents or open patent applications are published and available at any governmental patent office, and;
4. when such information is released or publicly discussed at an open conference, meeting, seminar, trade show or other open gathering.

2.10 Public Domain as defined by ITAR: ITAR defines public domain to mean information that is published and which is generally accessible or available to the public through:

1. sales at newsstands and bookstores;
2. subscriptions that are available without restriction;
3. second class mailing privileges granted by the U.S. Government;
4. libraries open to the public or from which the public can obtain documents;
5. patents available at any patent office;
6. unlimited distribution at a conference, meeting, seminar, trade show or exhibition, generally accessible to the public, in the U.S.;
7. public release (i.e., unlimited distribution) in any form;
8. fundamental research in science and engineering at accredited institutions of higher learning in the U.S., where the resulting information is ordinarily published and shared broadly in the scientific community.

2.11 Resources: All resources owned or leased by UT Dallas, or otherwise used by UT Dallas personnel, within the scope of research conducted at UT Dallas.

3.0 Authority

The President designates both the Vice President for Research (VPR) and the University's Export Controls Officer as the University's Empowered Officials for export control matters.

The Office of the Vice President for Research is charged with the responsibility for implementation of this policy and development of related procedures, controls, and trainings.

4.0 Implementation of an Export Controls Compliance Program

4.1 University Responsibilities

1. UT Dallas is committed to maintaining academic freedom by conducting its education, research, and service activities in an open environment that encourages the exchange of research and technology, consistent with export control laws and regulations. When feasible, the University will make reasonable efforts to share these activities in the public domain or under fundamental research exemptions to export control regulations.
2. UT Dallas will provide awareness training and procedures for self-assessment and monitoring to employees and offices whose job responsibilities may be affected by the export control regulations.
3. UT Dallas will implement an export compliance program to serve as the University's guiding framework to assure University compliance with export control laws and regulations. This program lays out the necessary responsibilities, procedures, and controls for properly managing export compliance for the University and its employees, students, affiliates, and contractors.

4.2 Individual Responsibilities

1. Empowered Official (EO): The EO has authority and power to: 1) represent the University before the export control regulators in matters related to registration, licensing, commodity jurisdiction requests, or voluntary disclosures; 2) sign paperwork

and bind the University in any proceeding before DDTC, BIS, OFAC, or government agency with export control responsibilities; 3) sign export license applications or other requests for approval on the University's behalf; and 4) independently inquire into any aspect of a proposed export and verify the legality of the transaction and accuracy of the information to be submitted.

2. Export Controls Officer (ECO): The ECO has the authority and the responsibility for the implementation of the procedures and controls set forth in the University's export compliance program.
3. Export Controls Council (Council): The Vice President for Research appoints membership on the Council. This Council includes liaisons to the academic units from the Provost's Office and to related University business offices. The ECO serves as chair of the Council. The Council is charged with addressing and resolving issues related to export controls. It serves to advise the VPR on policies, procedures, and necessary institutional actions to strengthen institutional compliance with export control regulations.
4. Principal Investigator (PI): A PI must ensure that their activities conform to export control rules and regulations and that they do not disclose controlled information or transfer controlled articles or services to a foreign national without prior authorization as required.
5. Faculty, Staff, Students, and University Affiliates: All faculty, staff, students, and University affiliates must be aware of export control implications of their work and must ensure their activities conform to export control rules and regulations. Any required license and/or approval must be obtained before exporting anything deemed controlled. Refer to the Office of Research Compliance informational webpage for export control guidance.
6. University Managers: Academic deans, directors, and department heads have responsibility for overseeing export control compliance in their respective schools, departments, centers, or institutes and supporting the ECO in implementing procedures as deemed necessary by the ECO for export control compliance. In addition, the directors of other offices or units on campus have responsibility for overseeing export control compliance in their units and supporting the ECO in implementing procedures, as deemed necessary for export control compliance. These other offices include, but are not limited to, Budget and Finance, Environmental Health and Safety, Human Resources, International Center, Technology Commercialization, and Travel.

5.0 Violations and Penalties

Failure to comply with applicable export control regulations may result in civil and criminal

penalties to the University and to individual UT Dallas employees, students, affiliates, and contractors. An individual who violates export control laws and regulations or does not comply with this policy may also be subject to University remedial or disciplinary action up to and including termination or dismissal, in accordance with applicable University policies and procedures.

Related Statutes, Policies, Requirements or Standards

- [UTS 173 Export Controls](#)
- [Bureau of Industry and Security](#)
- [Export Administration Regulations](#)
- [International Traffic in Arms Regulations](#)
- [Office of Foreign Assets Control](#)
- [UTS 173 Export Controls](#)

RESPONSIBLE PARTY

LAST REVIEWED

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