



# **Export Control Program**

2023 Version

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## I. Introduction and Regulatory Background

Syracuse University's Export Control Program (ECP) addresses obligations set forth by U.S. Federal Export Control and Trade Sanction laws and regulations.

Export Control laws govern how information, technologies, software, technical data, and commodities may be transferred abroad or to foreign nationals within the United States. Specifically, these laws and regulations govern:

- A. What research instruments, materials (including biologics), software, and technology U.S. institutions can export (i.e., transfer) out of the country by any means (including, in the case of information, digital transfer).
- B. What sensitive items and technology may be shared with and used by foreign national visa holders both internationally and within the U.S. This includes foreign national students, researchers, employees, and visitors present at the University. A foreign national is an individual who is not a (i) U.S. Citizen or permanent resident alien of the U.S. (i.e., a green card holder), (ii) lawfully admitted temporary resident alien or refugee, or (iii) other protected individual as defined by 8 U.S.C. 1324b(a)(3).
- C. Which non-affiliated research and business entities the University can partner with to avoid engaging with U.S. government-restricted or prohibited entities (i.e., parties that are of concern to the U.S. government from a national security, export control or embargoed-country perspective).
- D. Compliance with the U.S. Treasury Office of Foreign Assets Control (OFAC) trade sanctions applicable to certain countries and parties identified by the U.S. government.

The University is committed to making resources available to all personnel in furtherance of these compliance objectives and taking all steps necessary to investigate and remediate suspected or actual compliance violations.

This program is not intended to serve as and should not be considered formal legal advice. Specific questions about export control compliance should be directed to the Compliance Office at [exportcontrol@syr.edu](mailto:exportcontrol@syr.edu).

## II. Purpose

The purpose of Syracuse University's Export Control Program is to provide the basis for the operational program and procedures which manage export control decisions and transactions in compliance with the three major components of the export control laws and regulations, i.e., the Export Administration Regulations (EAR), the International Traffic in Arms Regulations (ITAR) and the Office of Foreign Assets Control (OFAC) trade sanctions and embargoes.

Syracuse University, including each individual employee and student, must comply with export control regulations. No member of the Syracuse University community may engage in any activity, or commit the University to engage in any activity, that

is contrary to U.S. export control laws and regulations. The associated penalties for non-compliance are severe and impact both Syracuse University and the individual.

### III. Commitment

Syracuse University is committed to compliance with all export control and trade sanction laws and regulations. This commitment extends to promoting strict compliance on an on-going basis. All employees must comply with such policies and regulations. Under no circumstances may exports be made contrary to U.S. export regulations by any individual acting on behalf of the University or using University facilities or resources.

Additionally, employees outside the United States may not re-export any controlled or restricted commodity, technology, or software that is the product or derivative of U.S. technology or software unless pre-authorization has been obtained from the appropriate licensing government agency.

No activities that seek to control nuclear proliferation, missile technology, or chemical or biological weapons may be undertaken in violation of any U.S. export control regulations.

Export control compliance is an essential obligation. Any member of the University community that becomes aware of a potential export control violation shall report it immediately to the Office of Compliance or the confidential Syracuse University Compliance Ethics hotline.

Most export control violations are inadvertent. Timely reporting of a suspected violation is the best mitigation of an inadvertent violation.

### IV. Export Policy Administration and Oversight

The Export Control program is facilitated and led by the Export Control Officer (ECO) within the Office of Compliance. The Office of Compliance is responsible for facilitating export compliance across all export-sensitive research activities. The University's designated Export Control Officer (ECO) and their designees and/or partners are responsible for the implementation, oversight, management, audit, and enforcement of campus-wide export control activities.

### V. Roles and Responsibilities

#### **Export Control Officer**

The ECO shall be responsible for day-to-day oversight of Syracuse University's export control policy and program.

In the event of a suspected compliance violation, the Export Control Officer may suspend any transaction leading to (or causing) such suspected violation and will coordinate investigative and remedial efforts. Only the ECO, or their designee shall have the authority to approve and direct international exports of export-controlled items (whether subject to an export license or license exception). The ECO, or

designee is responsible for ensuring that the University's executive leadership is informed of any suspected or potential export control violations in a timely manner.

The ECO serves as the University's representative for all federal export control certifications and inquiries. The ECO is also responsible for:

- Identifying and clarifying the impact of restrictive (publication and citizenship) clauses and citizenship-related conditions in sponsored research agreements; post-contract/grant export compliance administration, including Technology Control Plans (TCPs) and export licenses, and selectively screening research and contract partners against U.S. government restricted party lists.
- Reviewing escalated international memorandums of understanding (MOUs) and other institutional agreements for export control implications. Proactively and selectively screening the parties which the University collaborates with against U.S. government restricted party lists.
- Coordinating the required export control certification process associated with H-1 and O-1 visa petitions, as well as the export control evaluation process associated with J-1 and F-1 scientific researchers.
- Reviewing requests to host non-University affiliated visitors to university export sensitive laboratories and research spaces.
- Evaluating proposed international shipments and transfers to determine export control license or exemption requirements. If licensure or exemption is required, obtaining export authorizations from the appropriate U.S. government agencies.
- Coordinating export control requirements and training with respect to controlled biologics contained in BSL 2 laboratories (biosafety), certain chemicals, radioactive, and laser equipment.
- Establishing TCPs and Biological Control Access Plans (BCAPs) to manage export-controlled items and data on campus.
- Overseeing and/or tracking the location and relocation of export-controlled items on campus.
- Assisting the University to avoid payment transactions with U.S. government-restricted parties and entities.
- Advising purchasing on proactively identifying export-controlled items being purchased that may, in certain circumstances, trigger foreign national access and use restrictions.
- Advising OSP and IT on data security protocols as required for export-sensitive projects, High Performance Computing systems, or in compliance with other federally mandated contract provisions.
- Reviewing industry contracts and proprietary intellectual property agreements for export control implications; reviewing non-disclosure agreements and material transfer agreements that potentially convey, respectively, export-controlled data and items; implementing safeguards associated with export-controlled invention disclosures and ensuring that commercial licensees are screened against restricted party lists.
- Coordinating restricted party screening (RPS) across campus through tools available to the University.

- Coordinating the University's strategy to address foreign influence prevention and research security.
- Coordinating the University's communication with U.S. government agencies on export control matters.
- Advising international programs (e.g., exchange programs, research collaborations, inter-institutional agreements) of export control requirements.
- Managing all required export control recordkeeping.

### **Vice President for Research**

Makes the final determinations in consultation with ECO on acceptance of any award with export control restrictions.

### **University Divisions**

Each division shall, upon request by the ECO, designate a primary point of contact to serve as the ECO's liaison on export related matters. The liaison will be responsible for coordinating notifications, trainings, maintaining local records, and ensuring the export control related activities are addressed in a timely manner.

### **Deans, Department Heads, and Chairs**

Responsible for taking appropriate training in export control regulations, as well as knowledge of the export controls relating to the area(s) of research that are under their purview. As needed, these senior level personnel shall support communication about export compliance to their respective Colleges and Departments.

### **Department Administrators**

Responsible for knowledge of the Export Control Program and Policy and implementing procedures related to export regulations as they may pertain to the administrator's area. They shall consult the ECO and advise faculty as needed.

### **Principal Investigators (PIs) and Co-PIs**

PIs have expert knowledge of the type of information and technology involved in a research project or other university activity. Hence when engaging in certain restricted (non-fundamental research projects), PIs and/or Co-PIs shall ensure that when presenting at conferences and discussing research findings with fellow researchers or collaborators, they do not disclose export controlled technical data unless specifically authorized by the compliance program which the ECO has established. This data may be comprised of information resulting from a research project; information provided under a non-disclosure agreement (NDA or other confidentiality agreement); or information associated with a particular tool, instrument, software code, or other material (item) that has been determined by the ECO to be export controlled such that the technology to use or develop the item

is also controlled. PI/Co-PI responsibility also extends to ensuring that there is no unauthorized transfer of controlled articles or services to a foreign national without prior authorization as required.

Each PI or Co-PI shall:

- Work with the ECO to understand their obligations under U.S. Export Control Regulations.
- Assist the ECO when needed in correctly classifying technology and items that are subject U.S. Export Control Regulations.
- Assist in developing and maintaining the conditions of a technology control plan (TCP) for any activity, technology, data, or equipment when the need for such a plan is identified by the ECO.
- Ensure that research staff and students have been trained on the TCP and on the U.S. Export Control Regulations should any apply.
- Assist the ECO in complying with other conditions of a Sponsored award, including required publication restrictions, notification of foreign national research participants, certifications that no participant is funded by/or associated with a foreign talent program.
- Notify the ECO prior to (or immediately upon) the receipt of any information or technology from an external party that is either identified as or suspected to be export controlled.
- Ensure that all international shipments sent from their lab(s) are either approved by the ECO, or through a process set forth by the ECO.
- Complete appropriate Export Control training as required by federal government agencies, OSP, or the ECO.

### **Office of University Counsel (OUC)**

In conjunction with the ECO, provide interpretation to university researchers and administrators regarding the laws, regulations, and University policies related to export controls, Treasury sanctions, and other trade-related legal requirements.

### **Office of Sponsored Programs (OSP)**

OSP aids in export control compliance by working closely with the ECO in identifying export control and data security issues; ensuring that the fundamental research exclusion (FRE) is articulated in grant and contract negotiations when intended by the PI; and negotiating solutions with the research sponsor with respect to the University's export control and data security positions and acceptance of contractual risk.

OSP shall:

- Review the terms of a sponsored agreement, grant or other non-financial agreement and identify any restrictions on publication or dissemination of the research results, as well as restrictions for proprietary or national security reasons, including but not limited to citizenship, data security, etc.

- Consult with the ECO to understand any impermissible contractual restrictions, and work with the research sponsor to negotiate the impermissible terms out of the agreement.
- Identify potential export control issues in agreements and bring them to the attention of the ECO.
- Perform restricted party screenings on all collaborating entities in accordance with documented procedures.
- Review non-disclosure agreements and other contractual terms for indications that information controlled under U.S. Export Control Regulations may be provided to Syracuse University, including incoming MTAs. Alert the ECO and refrain from signing the agreement until a Technology Control Plan is executed and the ECO provides approval.
- Act as a liaison between the PI, the sponsor, and the ECO.
- Notify researchers of obligations to complete required Export Control training.

### **Budget and Finance, Purchasing and Disbursements**

Assists in compliance with export control regulations by identifying potential export issues in purchase and payment activities to the ECO.

These units shall:

- Screen all payees and their country of location against U.S. sanctioned parties lists and elevate alerts to the ECO prior to submitting for payment.
- Review contract and invoice terms where applicable and raise export control related issues to the ECO.
- Notify the ECO of any purchases involving EAR or ITAR controlled equipment, technology, or software.
- Serve as the liaison between the ECO and the vendor, for resolution of export control related issues.
- Update the Purchasing Manual as needed, to implement updated guidance from the ECO.
- Assist the University in complying with Section 889 of the National Defense Authorization Act (NDAA) with respect to restricting procurement of certain telecommunications and digital enabling equipment to be used in federal research.

### **Office of Technology Transfer (OTT)**

Negotiates licenses to university intellectual property or material transfer agreements when a PI desires to transfer materials off-campus. OTT shall review the terms of all outgoing MTAs and licensing agreements for export control issues; notify and assist the ECO in reviewing proposed transactions for export control issues; screen all licensees and material recipients against U.S. sanctioned parties lists; and elevate alerts to the ECO prior to signing agreements.



## **Human Resources**

Human Resources is responsible for screening new hires against sanctioned parties lists, as appropriate and in compliance with applicable U.S. laws and regulations.

## **Environmental Health and Safety**

Environmental Health and Safety (EHS) assists the ECO with technical issues related to export controlled biological and genetic materials, chemicals and radioactive materials. EHS shall work closely with the ECO in identifying licensable international shipments and obtaining the required documentation to support such transfers. EHS shall provide training on biological shipments to laboratory personnel, including information on international shipments and export control.

## **Information Services and Technology (IT)**

Information services and technology (IT) manages risks to the security of SU data, including research data, and assists the ECO with the development of TCPs for research subject to export control regulations. When special data security requirements are incorporated into sponsored research agreements, IT will facilitate the appropriate solutions including, but not limited to, those requirements associated with NIST-800-171 controlled unclassified information (CUI). In addition, IT will facilitate remote access by SU faculty, staff, and students located internationally as well as data security parameters associated with international research collaborations.

## **International Student Center**

The International Student Center will assist the ECO with strategizing nonimmigrant visa sponsorship to international students, scholars, faculty, employees, and visitors to Syracuse University, notifying the ECO prior to providing J-1, H-1b, O-1 or TN sponsorship for an employee working with controlled technology to ensure license has been obtained to comply with USCIS Form I-129 requirements, and forwarding applications with export control issues to the ECO for review.

## **Travel Safety**

Responsible for maintaining and administering the International Travel Registry, working with the ECO to provide up-to-date guidance to travelers in accordance with U.S. Export Control Regulations, referring matters and/or elevating export control related issues to the ECO, including but not limited to, engagements with sanctioned countries or entities, and providing travelers with resources and advice in accordance with the travel policy and other institutional policies and procedures.

## VI. Record Keeping and Record Retention

All records shall be retained no less than five years following the export transaction or related compliance implementation, unless otherwise provided for and in compliance with export regulations.

All records related to physical shipments of goods or small packages will be kept on record for at least five years from the date of export. Each employee or researcher is required to keep documents on file either in the physical form or electronically. In the event of an audit, the University will be required to reproduce these documents on short notice. The required documents include but are not limited to commercial invoice, airway bill, bill of lading, packing list, certificate of origin, carnets, shipper's letter of instructions, AES submission printout or the ITN code, denied party screening check list, export shipping checklist, and any other special document received from the University's broker.

If ITAR controlled technical data is exported under an exemption, certain records of the transaction must be kept even beyond the standard five-year period. The records must include:

Those records include:

- A description of the unclassified technical data
- The name of the recipient/end-user
- The date/time of export
- The method of transmission (e.g., email, fax, telephone, FedEx)
- The exemption under which the export took place

## VII. Monitoring and audit program

To maintain SU's Export Control Program and to ensure consistent adherence to U.S. export laws, the ECO may periodically conduct internal reviews of TCPs, procurement programs, deemed export determinations and other core requirements. The purpose of the reviews is to identify possible violations or deficiencies in training, or procedures, that can be rectified.

The Office of Compliance may also perform compliance-based risk assessments and request units to conduct self-assessment with the ECO assistance. University internal audit may also perform internal audits regarding the University Export Control program.

## VIII. Training and Education

Training is a critical component of maintaining compliance with export control laws. It is especially critical that faculty and administrative staff that direct or participate in research projects involving export-controlled goods, technology, or software

participate in Export Control training. Export control training must be viewed as a necessary requirement, but not one that impedes research and academic activity. The Office of Compliance shall maintain an export control website where all resources and training information are easily accessible to the campus community.

## IX. Violations and Reporting

Any individual who suspects a violation has occurred must immediately notify the Export Control Officer and the Chief Compliance Officer. In recognition of the seriousness of non-compliance with export controls, SU will address non-compliance in accordance with the SU policies and procedures. Further, all SU employees responsible for export controls compliance or participating in export-controlled projects must be aware of the substantial criminal and civil penalties imposed for violation of the export regulations including personal liability, federal debarment, monetary fines, and imprisonment.

You may also utilize Syracuse University's confidential and anonymous reporting hotline to report suspected violation.

## X. Export Control Committee(s)

The Research Security and Export Control Committee meets on an annual basis, and more frequently if necessary. The Task Force responsibilities include:

- Assisting with development and implementation of the Export Control program
- Assisting with development and implementation of the Research Security policy and program
- Assisting in the development of mechanisms to mitigate or eliminate unacceptable export control and research security risks
- Reviewing the export control policy, research security policy, and associated program manuals at least once every five years and recommending any updates, changes, or improvements.
- Assisting with the dissemination of training and regulatory update information across the campus community
- Facilitating communication about the importance of export regulatory compliance and policies among the university community including provost, deans, associate deans for research, directors, administrative offices, operations, and faculty.

## XI. Agencies, Regulations, and Technologies:

<b>Law</b>	<b>US Department</b>	<b>Regulation</b>	<b>Controls</b>
EAR	Commerce	15 CFR 730-774	Dual use goods, technology, chemicals, and software
ITAR	State	22 CFR 120-130	Military items, services, and research
OFAC	Treasury	31 CFR 500 Subtitle B	Trade and travel prohibition with embargoed/sanctioned countries, individuals, and entities

### **U.S. Department of Commerce**

Administers the Export Administration Regulations (EAR) through the Bureau of Industry and Security (BIS). EAR regulations are designed to control items, technologies, materials, or software that are considered to be “dual use”. Dual use items have both civil and military uses or applications. Items and technical data subject to the EAR are listed on the Commerce Control List (CCL). Generally, any physical items made in the U.S. will be subject to the EAR unless the item qualifies for an exemption or is covered by another jurisdiction such as the ITAR.

### **U.S. Department of State**

Administers the International Traffic in Arms Regulations (ITAR) through the Directorate of Defense Trade Controls (DDTC). ITAR regulations apply to any item, service, or technical data listed on the United States Munitions List (USML). Technical data includes data recorded or kept in physical form, models, mock-ups, blueprints, photographs, plans, instructions, software, etc. Technical data does not include information concerning general scientific, mathematical, or engineering principles commonly taught in schools, colleges, or universities or information in the public domain.

ITAR regulations also control the export and temporary import of defense articles, data, and services. A defense article is any item or technical data that is specifically designed, developed, configured, adapted, or modified for military or space use. Defense services are services provided to foreign persons, whether in the U.S. or abroad, in the design or development of defense articles. The service may be in the form of providing training, engineering, production, testing, repair, maintenance, operation, destruction, or processing of a defense article. Defense services also include providing training, advising, consulting or other forms of technical support to foreign military agencies or their representatives, even if the informational content of the support resides in the public domain or is the subject of fundamental research.

## **U.S. Department of Treasury**

Administers exports to embargoed countries through its Office of Foreign Assets Control (OFAC). OFAC regulations govern travel and transactions related to countries where the U.S. maintains economic and trade sanctions. The level of restriction or prohibition is determined by foreign policy and national security considerations.

## **Other Governing Agencies**

While the foregoing agencies are the three main agencies that regulate exports, other agencies also have jurisdiction over certain items and activities subject to export controls. Depending on the transaction or scope of research, Export requirements for the following agencies may also need to be met to ensure compliance with U.S. export control regulations:

- Department of Energy
- Drug Enforcement Administration
- Nuclear Regulatory Commission
- U.S. Customs and Border Protection

For purposes of defense and dual-use exports, a U.S. person is defined as a U.S. entity or a U.S. citizen, a person lawfully admitted for permanent residence in the United States (i.e., a green card holder), or a person who is a protected individual under the Immigration and Naturalization Act (8 U.S.C. § 1324b(a)(3) (i.e., certain classes of asylees). A U.S. person may be engaged in activities that are export-controlled, unless there are some additional restrictions that limit participation to U.S. citizens (such as classified research).

The regulations define a foreign person as anyone who is not a U.S. person. The DDTC looks at the person's country of origin (i.e., country of birth) and all current citizenships. BIS looks at the person's most recent citizenship and permanent residence. Note that the definitions for a U.S. and a foreign person may differ for purposes of the OFAC sanctions. Contact the ECO for clarification on the particular OFAC sanction.

## Appendices

### **Appendix A: DEFINITIONS**

- A. Biologic Control Access Plan (BCAP)
  - Documented BSL-2 access and use plan focusing on BSL-2 security measures.
- B. Deemed Export
  - Access to and/or sharing of export-controlled technology/information with foreign nationals on campus or elsewhere within the U.S. where such access is restricted by virtue of that foreign national's citizenship, subject to U.S. agency license approval or a license requirement exemption.
- C. Export
  - International transfer of any commodity, software, material, or technology (information) including (but not limited to) specifically "export controlled" items (as defined by U.S. government agencies) by any means including (but not limited to) courier/mailed shipment, hand carried transfer, digital transfer, spoken communication and, depending on the export control level, visual access to certain controlled items and information.
- D. Export Administration Regulations (EAR)
  - Department of Commerce export control regulations governing and codifying the export and/or deemed export of "dual use" items and technologies (including but not limited to those used and/or generated by fundamental research and restricted research activities) for reasons concerning national security, chemical/biologics controls, missile technology, nuclear proliferation, international geo-political stability, or anti-terrorism. Includes all export license/license exemption procedures pertaining to destination controls and restricted parties.
- E. Export License/Authorization
  - Official written approval by a U.S. government agency to conduct a particular export or deemed export transaction.
- F. Foreign Influence
  - Attempts by international governments and related organizations to gain access to export sensitive research applications or data, or other trade secrets or intellectual property (IP), either through illegal information technology (IT) penetration or through proximity to and absorption of such IP domestically or internationally.
- G. Foreign National
  - An individual who is not a (i) United States Citizen, (ii) permanent resident alien of the United States (i.e., a green card holder), (iii) lawfully admitted temporary resident alien or refugee, or (iv) other protected individual as defined by 8 U.S.C. 1324b(a)(3).
- H. Fundamental Research Exclusion (FRE)
  - Fundamental research means research in science, engineering, or mathematics, the results of which ordinarily are published and shared broadly within the research community, and for which the researchers have not accepted restrictions on publication for proprietary or national security

- reasons.
  - “Technology” or “software” that arises during, or results from, fundamental research and is intended to be published is not subject to the EAR.
  - Research that contains publication restrictions or that contains access or dissemination restrictions does not qualify as Fundamental Research. See 15 CFR §734.8.
- I. International Traffic in Arms Regulations (ITAR)
- U.S. Department of State export control regulations governing access to and use of defense items and technologies domestically and internationally, as well as delivery of codified defense services to international defense agencies.
- J. Office of Foreign Assets Control (OFAC)
- Branch of the U.S. Treasury Department, which exercises oversight over the U.S. government’s trade sanctions and embargo programs.
- K. Re-export
- The re-export of an item subject to the EAR that will transit through a country or countries to a destination identified in the EAR.
- L. Technology Control Plan (TCP)
- Documented, comprehensive security measures applicable to federal and industry-sponsored research, service agreements, and contracts where the University is an award recipient or subcontractor, and agreement/contract mandates, export control restrictions, and/or dissemination restrictions, and/or data security restrictions (including but not limited to U.S. government classified contracts).
- M. Trade Sanctions
- Specific prohibitions under OFAC regulations on engagement with OFAC-sanctioned (“blocked”) parties as well as broad country defined restrictions (e.g., Cuba, Iran, Syria, North Korea).

## **Appendix B: Forms**

- A. [Deemed Export Form](#)
- B. [International Shipping Form](#)
- C. [International Travel Form](#)
- D. [International Partner Screening Request Form](#)
- E. [J1 Foreign Influence Due Diligence Form](#)
- F. [Travel Registry](#)