
Management of Export-Controlled Sponsored Projects

OFFICE OF RESEARCH COMPLIANCE AND ASSURANCE

Policy and Procedures

1. Purpose

To establish procedures to be followed in connection with Sponsored Projects subject to International Traffic in Arms Regulations (ITAR), Export Administration Regulations (EAR), Office of Foreign Assets Control (OFAC) Regulations or other applicable export control regulations.

2. Definitions

Foreign National Person: Any person who is not a U.S. citizen, lawful permanent resident alien (green card holder), refugee, protected political asylee or someone granted temporary residency under amnesty or Special Agricultural Worker provisions. Also any foreign government or any foreign corporation or entity that is not incorporated or organized to do business in the U.S.

Fundamental Research: Means basic or applied research in science and engineering performed or conducted at an accredited institution of higher learning in the U.S. where 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 propriety reasons or national security reasons (EAR) and pursuant to specific U.S. government access and dissemination controls (ITAR)

Technology Control Plan (TCP): A plan, prepared by Principal Investigator and approved by the Unit, and reviewed by Office of Research Compliance and Assurance, for ensuring that there will be no unlawful export of restricted commodities, defense articles, software, data, technology, or technical data in a Sponsored Project without an appropriate government approval.

3. Responsible Research Administration Offices

The Office of Sponsored Programs (OSP), the Office of Health Systems Grants Administration and Development (HSGA), Office of Grants Administration (OGA) and the Office of Technology Transfer (OTT) are responsible for reviewing proposals, contracts, and grant awards for compliance with export control regulations. Any potential compliance issues will be referred to the Office of Research Compliance and Assurance (ORCA) for final determination, resolution and/or management as applicable.

3. Policy

The OSP, HSGA, OGA, OTT shall comply with export control regulations governing applicable Sponsored Projects. The Principal Investigator of an export controlled Sponsored Project shall be responsible for complying with all applicable export control regulations. OSP, HSGA, OGA

and OTT should coordinate with the Principal Investigator and the ORCA to determine if a proposed Sponsored Project is subject to export regulations.

4. Policy Administration

The Office of Research Compliance and Assurance and applicable Research Administration offices are responsible for ensuring that Sponsored Project proposals, contracts, and grant awards are identified and in compliance with applicable export control laws.

The Vice President for Research and the ORCA Director are responsible for this policy. The ORCA Director is responsible for issuing requests for export licenses, commodity jurisdiction requests, commodity classifications, and other documents required by applicable export control regulations that relate to Sponsored Projects.

5. Principal Investigator Procedures

The Principal Investigator (PI) must complete the Export Control section on the University Transmittal Form and shall be responsible for complying with applicable export control regulations and preparing and implementing a project specific TCP for an identified export-controlled Sponsored Project. When a potential export control issue is identified by a Research Administration office, the Principal Investigator is referred to ORCA for a final determination of the export control regulation applicable to the project. The Office of Research Compliance and Assurance will assist the Department, College, or Unit and the Principal Investigator in determining the appropriate export control management and, if the Sponsored Project is export control restricted, in determining security measures needed to prevent unlawful export of export controlled software, technology, or technical data to foreign nationals or foreign persons without an appropriate license or other government approval. The Principal Investigator and Unit shall comply with the security measures in the TCP, and annually certify to ORCA that they are complying with the TCP for each export controlled Sponsored Project for which they are responsible.

Principal Investigators must be aware that any “side” arrangement, contracts, terms, or clauses negotiated by the PI and sponsor without the express knowledge and/or approval of the Vice President for Research may jeopardize the University’s fundamental research exclusion. The University of South Alabama will not honor, recognize or be bound by any such arrangement, contracts, terms or clauses.

6. Pre-Award Proposal Processing Procedures

- Review Requests for Proposals / solicitations to identify any export control, foreign person/foreign national, or publication restrictions and notify ORCA of the restriction(s).
- Review pending proposal draft narrative / budget to identify proposals involving a foreign country or foreign travel and notify ORCA of the pending proposal.
- Place any export control **identified** Sponsored Project award in a red folder.

7. Post-Award Management Procedures

- Identify any export control, foreign person/foreign national, or publication restrictions in the award documents and notify ORCA of the restriction(s).
- Identify award documents involving a foreign entity and notify ORCA of the restriction(s).
- Enter into OGA database any publications restrictions, foreign national restrictions, export control restrictions (i.e., EAR, ITAR, OFAC).
- If applicable, the award acceptance sheet should indicate export control restricted research.
- Negotiate whenever possible to remove publication/access and contract specific national security restrictions to allow the Sponsored Project to be conducted as Fundamental Research, not subject to export control regulations.
- Consult with PI and/or ORCA when changes are proposed to a Sponsored Project (i.e., personnel, or equipment added; venue or scope of work changed) that may involve export control regulations.
- Obtain and include the Principal Investigator and Unit's signed TCP in an export control restricted award unless this requirement is waived in writing by the Director, ORCA.

8. Office of Research Compliance and Assurance Procedures

- Make the final determination in determining if a Sponsored Project will require a TCP under export control regulations.
- Advise the Unit, Principal Investigator, and OGA of any required TCP for any export control restricted Sponsored Project, and in understanding export control regulation requirements and penalties for noncompliance.
- Assist the Principal Investigator in preparing and reviewing any TCP prepared for an export controlled Sponsored Project.
- Prepare, in coordination with the Unit, Principal Investigator and, if applicable, Sponsor, self-determined export control commodity jurisdiction and classifications for Sponsored Projects. In the event that a self-determined commodity jurisdiction and classification cannot be made for a potentially export control restricted Sponsored Project, prepare in coordination with the Unit and/or Principal Investigator and submit a commodity jurisdiction/ commodity classification request to the Department of State or Department of Commerce, as applicable.
- Conduct training for all personnel in an export-controlled Sponsored Project who will have access to export-controlled items, software, or technology, unless such training is waived in writing by the Director of ORCA.

- Maintain a record of all documentation required by export control regulations relating to Sponsored Projects.

9. References

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| International Traffic in Arms Regulations (ITAR) | 22 CFR §§120-130 |
| Export Administration Regulations (EAR) | 15 CFR §§734-774 |
| Office of Foreign Assets Control (OFAC) | 31 CFR §§500-599 |

http://www.treas.gov/offices/enforcement/ofac/sanctions_guidance