UNH Export Management and Compliance Program (EMCP) Manual

Prepared by the Export Controls and Embargoes Working Group
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Note: This document and the management processes it describes are considered to be a working model that will evolve as required.
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¹ 22 CFR §120.25
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1. Introduction

United States export controls are based on a complex set of federal laws and regulations governing how information, technologies, and commodities can be transmitted overseas or to foreign nationals in the U.S. These laws and regulations are in place to protect U.S. national security; to prevent the proliferation of weapons of mass destruction; and to further U.S. foreign policy. Export controls apply to all types of institutions, organizations and individuals in the U.S., including universities.

This document describes the University of New Hampshire (UNH) Export Management and Compliance Program (EMCP). At one level, it is written for the UNH community generally to help explain these complex laws and regulations and why compliance is necessary. More specifically, it is directed at those administrative functions whose active participation is necessary in order to ensure compliance. Finally, it is intended to help the Office of the Senior Vice-Provost for Research guide and manage the compliance program.

The ultimate objective of this EMCP is to ensure that our activities (e.g., research, education, and outreach) are transacted consistent with U.S. export laws and regulations. Compliance is a shared responsibility and it is UNH's expectation that each employee understands the standards described and the importance of creating a system to manage our overall export responsibilities.

A vital component of compliance is identifying vulnerabilities and establishing procedures that provide checks and safeguards at vulnerable points of the system. The checks and safeguards described in this document are meant to ensure that the right questions are being asked in order to reduce the risk of inadvertently exporting to a restricted end-user, or exporting for a prohibited end-use or activity.

To ensure the integrity of this EMCP, individual feedback and suggestions for strengthening the procedures are encouraged. For questions or to send feedback and suggestions related to the EMCP procedures, please email export@ unh.edu.

NOTE: Export control laws and regulations are complex and their interpretation is specific to each situation being considered. This document is meant to serve as a guide to provide basic information related to export controls; it should not be relied upon exclusively nor should it be considered formal legal advice. Specific questions about UNH export control compliance should be directed to the Director of Export Compliance.

II. Export Controls in an Academic Environment

Export control laws have significant implications for scholarly activities – implications that are not always recognized or well understood by a university community whose culture purposefully promotes the dissemination of knowledge. Consequently, universities often struggle to define controls and management plans that allow them to maintain an open and vigorous teaching and research environment.

Much of the impact to universities such as ours falls under the research administration umbrella, but export controls also affect how we manage intellectual property, process visas, matriculate or hire
foreign nationals, purchase and use scientific equipment, conduct work and collaborate with colleagues here in and outside the U.S., and travel outside the U.S. for scientific and educational purposes.

While the most common endeavors undertaken by an institution of higher learning (i.e., education and basic or fundamental research) are ordinarily exempt from export control regulations, certain activities carried out in support of these objectives should be considered export compliance red flags:

- Traveling abroad with scientific equipment, or with confidential, unpublished, or proprietary information or data;
- Traveling with a laptop computer, certain cell phones and other personal equipment;
- Use of third-party export controlled technology or information, especially if it is subject to a confidentiality agreement;
- Sponsored research that includes contractual restrictions on publication and dissemination, or access to, or participation by, foreign nationals;
- International financial transactions and international shipments;
- International collaborations and presentations; and
- International field work.

Whereas an export might ordinarily be thought of as the shipment of tangible items outside of the United States, these regulations also control the transfer of technical data or technology to non-US persons anywhere — even on UNH campuses.

Overview of Regulations

A. Defense Articles & Services - U.S. Department of State

The Department of State, through its Directorate of Defense Trade Controls (DDTC), administers the International Traffic in Arms Regulations\(^2\) (ITAR). The ITAR governs the provision of defense services and the export of defense articles that are inherently military in character, or specially designed for military applications and enumerated on the U.S. Munitions List\(^3\) (USML).

Many technologies that are designed for the military find application in the conduct of research. For instance, inertial measurement units, which are used by the military, also provide the attitude and heading references necessary for the University’s ongoing research activities. It’s important to understand that the ITAR designation is related to the item and technical data about the item, rather than the intended use — however innocuous.

   i. Important ITAR Definitions

*Defense article*\(^4\) means any item or technical data listed in the USML or that provides the equivalent performance capabilities of an item on the USML. The definition also provides that, in the future, an

\(^{2}\) 22 CFR §§120 - 130
\(^{3}\) 22 CFR §121
\(^{4}\) 22 CFR §120.6
article shall be determined to be a defense article if it provides a critical military or intelligence advantage such that it warrants control under the ITAR. This term includes technical data recorded or stored in any physical form, models, mockups or other items that reveal technical data directly relating to items on the USML. It does not include basic marketing information on function or purpose or general system descriptions.

Defense service\(^5\) means the furnishing of technical data, as defined below, or assistance (including training) to foreign persons, whether in the United States or abroad in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing or use of defense articles. It also includes military training of foreign units and forces, regular and irregular, including formal or informal instruction of foreign persons in the U.S. or abroad or by correspondence courses, technical, educational, or informational publications and media of all kinds, training aid, orientation, training exercise, and military advice.

Technical data\(^6\) includes any information required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of defense articles. This includes information in the form of blueprints, drawings, photographs, plans, instructions or documentation (i.e., technical manuals). The definition also includes classified information, information covered by an invention secrecy order, and software directly related to defense articles. Technical data does not include information concerning general scientific, mathematical, or engineering principles commonly taught in universities, information in the public domain\(^7\), general system descriptions or basic marketing information on function or purpose of defense articles.

ii. ITAR Exports

An export, as defined by the ITAR, is extremely broad and includes taking any controlled item or technical data outside of the U.S. (e.g., on a laptop or thumb-drive, or sending via email) or allowing a foreign person to view or use same in the U.S.

U.S. persons or entities that manufacture and export defense articles or services are required to register with the DDTC. Only registered persons or entities may apply for a license or utilize an exemption within the regulations to export a defense article or service.

Although UNH engages in the fabrication of articles solely for experimental or scientific purposes, the University also exports those articles and associated technical data to international collaborators. Consequently, UNH is registered with DDTC and faculty members are not required to register individually to request a license or utilize an exemption.

An export license is not required if only U.S. persons\(^8\) will have the opportunity to access defense articles, technical data, or defense services; however, specific details regarding access controls should be documented and approved by UNH Export Compliance Staff.

\(^{5}\) 22 CFR §120.9
\(^{6}\) 22 CFR §120.10
\(^{7}\) 22 CFR §120.11
\(^{8}\) U.S. person means a person who is a lawful permanent resident or who is a protected individual. It also means any corporation, entity, organization or group that is incorporated to do business in the U.S. and any federal, state or local governmental entity
B. Dual-Use Items: U.S. Department of Commerce

The Department of Commerce, through its Bureau of Industry and Security (BIS), administers the Export Administration Regulations\(^9\) (EAR). The EAR governs the export or transfer of “dual use” items, that is, items that have both military and commercial/civilian application (e.g., acoustic systems, lasers, magnetometers). In effect, unless subject to another agency’s jurisdiction (e.g., ITAR controlled) any item made in the U.S. and/or containing U.S. origin technology or software is subject to regulation under the EAR. The EAR also prohibits the University or its personnel from agreeing to participate in any international boycott not supported by the U.S. government, such as the Arab League boycott of Israel.

i. Important EAR Definitions and Concepts

Export means the actual shipment or transmission of items subject to the EAR out of the U.S. but also includes releasing or otherwise transferring “technology” or source code (but not object code) to a foreign person in the United States, which is a deemed export to the foreign person’s most recent country of citizenship or permanent residency.

“Items subject to the EAR” consist of the items listed on the Commerce Control List\(^10\) (CCL) and all other items which meet the definition of that term. For ease of reference and classification purposes, items subject to the EAR which are not listed on the CCL are designated as “EAR99.”

“Technology” or “software” that arises during, or results from, Fundamental Research and is intended to be published is not subject to the EAR. Further discussion concerning Fundamental Research is included in Section III.

ii. EAR Exports

Licensing determinations under the EAR can be more complex than those under the ITAR. Whereas decisions under the ITAR can be considered binary, U.S. Person vs. Foreign Person, an EAR determination requires consideration of the item subject to the EAR, the destination, and the intended end-use and end-user.

C. Embargoes and Sanctions: U.S. Department of the Treasury

The Department of the Treasury, through its Office of Foreign Assets Control (OFAC), is responsible for enforcing U.S. embargoes and sanctions programs\(^11\). These programs regulate the transfer of items and/or services of value to embargoed nations; they impose trade and travel embargoes aimed at controlling terrorism, drug trafficking and other illicit activities; and they prohibit payments to nationals of sanctioned countries as well as some specific entities and individuals. Even activities allowed under the EAR or ITAR can be subject to strict licensing requirements if undertaken with sanctioned and/or embargoed countries or individuals and, in many cases, it is understood that licenses that are applied for

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\(^9\) 15 CFR §§730 - 774
\(^10\) 15 CFR §774
\(^11\) 31 CFR §§500 - 599
are subject to a government policy of denial.

It’s worth noting that in addition to the Department of the Treasury both the EAR and ITAR identify countries to which exporting is either prohibited (ITAR) or subject to some form of embargo or special control (EAR). Sanctions and embargoes are also more likely to raise issues around activities outside of the research sphere. U.S. Prohibitions against providing services to certain sanctioned countries and individuals can impact a UNH faculty member’s ability to present, teach and travel in those countries as well as their ability to provide services in the U.S. when the benefit of the service is received in the sanctioned country, i.e., online instruction.

D. Other Agencies and Regulations

Other agencies with regulatory authority over exports include, but are not limited to, the following:

**U.S. Census Bureau** – While not a formal export control agency, the Census Bureau’s Foreign Trade Division is responsible for maintaining and implementing the Foreign Trade Regulations\(^\text{12}\) that govern the preparation and submission of Electronic Export Information (EEI) submitted prior to most physical exports from the United States. The Census Bureau shares this export data with BIS, OFAC, DDTC, U.S. Customs and Border Protection and other regulatory and law enforcement agencies.

**U.S. Customs and Border Protection (CBP)** – While primarily responsible for imports into the United States, CBP officers at various U.S. ports oversee a wide variety of export-related activities and have the authority to inspect, detain and seize export shipments if they are not in compliance with the laws and regulations issued by BIS, DDTC and OFAC.

Other U.S. Government agencies that regulate exports include:

- Drug Enforcement Agency (DEA)
- Environmental Protection Agency (EPA)
- Department of Energy (DOE)
- Nuclear Regulatory Commission (NRC)
- Patent and Trademark Office (PTO)
- Food and Drug Administration (FDA)
- Fish and Wildlife Service (FWS)

E. Definitions & Glossary of Terms

Definitions related to export controls are codified in the Export Administration Regulations (EAR) at 15 CFR § 772, the International Traffic in Arms Regulations (ITAR) at 22 CFR § 120, and the Office of Foreign Assets Control (OFAC) regulations at 31 CFR Part 501. A subset of useful definitions and terms is provided below.

*Deemed Export* - The release of controlled technology to a foreign national (even when the foreign

\(^{12}\) 15 CFR §30
national is physically located in the US). This release is “deemed” to be an export to the country of the foreign national.

**ECCN (Export Control Classification Number)** - The five-character alphanumeric classification that is used to identify items on the EAR Commerce Control List. Most manufacturers should be able to provide an ECCN for items they produce.

**Generally Authorized** – Regulated activities which are in the scope of the controls, but are already determined to be acceptable and which can be conducted without additional approval as under a general license. These types of activities are ordinarily found within OFAC’s sanctions programs and the Department of Energy’s regulations concerning Assistance to Foreign Atomic Energy Activities\(^\text{13}\). Unlike OFAC, the DoE requires the use of a general license to be reported.

**Restricted Party Screening (RPS)** - A compliance control that prevents UNH from doing business with prohibited or restricted entities, including governments, companies, and individuals. The U.S. Government, as well as governments of various other countries, maintain lists of these types of entities. Under U.S. export control laws, UNH has a duty to exercise reasonable care in investigating the parties involved in, and the nature of, its export transactions. Screening entails checking to see if an entity that UNH proposes to engage appears on one or more of these lists.

**Technology Control Plan (TCP)** - A document that formalizes the procedures that UNH will use to control access to and release of export controlled items, information, materials, etc. in accordance with federal export regulations. A TCP also defines the parties responsible for compliance and documents that research personnel are aware of their compliance responsibilities.

## F. Violations and Penalties

Civil and criminal sanctions, including fines and/or prison sentences for individuals violating export control and embargo laws, are substantial and may apply to individual UNH community members as well as to UNH as an institution. It is important that faculty, staff, students and administrators understand their obligations under these laws. Although the regulations establish maximum fines, those fines may be imposed for each individual violation so the total fine may be very large. Also, a single unauthorized export can result in multiple violations, each carrying its own penalty. In addition to monetary consequences, violations may result in loss of export privileges and debarment from participating in federal awards, and possible imprisonment.

Violations of export control laws discovered at UNH should be immediately reported using the EthicsPoint Hotline\(^\text{14}\) or to the USNH General Counsel. If there is any doubt about whether a violation has occurred, a question can be submitted to export@unh.edu or anonymously through the EthicsPoint Hotline.

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\(^{13}\) 10 CFR §810
III. Exemptions from Export Controls

Although export controls are broadly applicable to University activities, exemptions from export controls exist because national policy recognizes that the nation’s interests are well served by the free and open exchange of information coming out of federally-funded research conducted at colleges and universities.

Most of the research and scholarly activities undertaken by faculty and staff at UNH fall within the exemptions specified below; however, UNH does occasionally carry out work that is not covered by these exemptions; this work is typically conducted under a Technology Control Plan or a government license.

A. Fundamental Research

National Security Decision Directive 189\(^{15}\) (NSDD-189) defines fundamental research as basic and applied research in science and engineering, the results of which ordinarily are published and shared broadly within the scientific community, as distinguished from proprietary research and from industrial development, design, production, and product utilization, the results of which ordinarily are restricted for proprietary or national security reasons.

Research conducted at UNH will not qualify as fundamental research if either the University or the investigator accept restrictions on the publication of the research results, or restrictions on access and participation in the research based on nationality. However, limited (i.e., not in excess of 90 days) prepublication reviews to prevent inadvertent disclosure of a research sponsor’s proprietary information or to insure that publication will not compromise patent rights are allowable and will not negate the fundamental research exemption.

If an activity doesn’t qualify as fundamental research, UNH Contracts & Export Compliance Staff will work with the Project Director to assess the compliance burden and determine if the activity can proceed. If the activity can be managed without any actual or “deemed” exports and without disruptive restrictions on the use of facilities by faculty, staff and students, regardless of their nationality, it may be possible to undertake the activity without a license even if it is outside the exemption.

There are other exemptions available under the export control regulations besides fundamental research, but if none is available as a means of compliance for a particular activity, it may be necessary for the University to secure the research through means of a Technology Control Plan (TCP); or, alternatively, to obtain an export license before the project can proceed. If a TCP cannot reasonably be put into place in the research space in question or an export license cannot be secured within a reasonable time and under reasonable conditions, the activity will need to be revised to bring it back under the fundamental research exemption; or, if not, the activity cannot be undertaken at UNH.

NOTE: Although the results (i.e., “outputs”) of Fundamental Research are not subject to export controls, and can be shared without a license, hardware and software items produced in the course of research still may be subject to export controls when physically exported from the United States. Hardware and software used in the conduct of Fundamental Research (i.e., “inputs”) remain subject

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\(^{15}\) https://fas.org/irp/offdocs/nsdd/nsdd-189.htm
to export controls and their use may require an export license or TCP. The use of unpublished and proprietary information as research inputs may also be subject to export controls and require an export license.

B. Educational Exemption

The ITAR exempts information concerning general scientific, mathematical, or engineering principles commonly taught in schools, colleges, and universities\textsuperscript{16} and the EAR, similarly, exempts information released by instruction in catalog courses and associated teaching laboratories of academic institutions\textsuperscript{17}. Dissertation research must meet the standards for “fundamental research” to be exempt.

C. Published (EAR); Public Domain (ITAR); or Information and Informational Materials (OFAC)

All three of the major export control regimes exclude information that is published or generally available to the public from control.

The EAR does not control Published\textsuperscript{18} technology or software when it has been made available to the public without restrictions upon its further dissemination through any of the following:

- Purchase or subscription available without restriction to any individual;
- Libraries or other public collections that are open and available to the public, and from which the public can obtain tangible or intangible documents;
- Unlimited distribution at a conference, meeting, seminar, trade show, or exhibition, generally accessible to the interested public;
- Public dissemination (i.e., unlimited distribution) in any form (e.g., not necessarily in published form), including posting on the Internet on sites available to the public; and
- Manuscripts, presentations, computer-readable datasets, formulas, algorithms, or some other representation of knowledge intended to be made publicly available if accepted for publication or presentation.

The ITAR's description of exempted Public Domain\textsuperscript{19} information is similar but notably specifies that distribution at conferences, meetings, seminars, etc. must take place in the United States.

OFAC sanctions and embargoes programs are country-specific and can vary in scope. Most programs, however, exclude some combination of "publications, films, posters, phonograph records, photographs, microfilm, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds."\textsuperscript{20}

\textsuperscript{16} 22 CFR §120.10(b)
\textsuperscript{17} 15 CFR §734.3(b)(3)(iii)
\textsuperscript{18} 15 CFR §734.7
\textsuperscript{19} 22 CFR §120.11
\textsuperscript{20} 31 CFR §560.315 (excerpted from the Iranian Transaction Regulations)
D. Bona Fide Full-Time Employees

Both the EAR and ITAR allow for the unlicensed release of controlled technical information to a bona fide, full-time employee under certain circumstances.

The term “bona fide and full-time regular employee” does not apply to student employees (i.e., graduate students). UNH’s Export Compliance Officer has determined that only certain H-1B visa holders can meet the criteria described below.

This exemption only covers information released to the employee by UNH, it does not cover discussions involving the controlled technical data that might occur between the employee and a third party, such as a research sponsor. In these instances, the non-university party is responsible for obtaining a license to transfer or export controlled technical data to the foreign national.

i. ITAR Requirements

Disclosures of unclassified technical data in the U.S. by U.S. institutions of higher learning to foreign persons who are their bona fide and full time regular employees are exempt from licensing requirements provided that:

- The employee’s permanent abode throughout the period of employment is in the United States;
- The employee is not a national of a country to which exports are prohibited; and
- The institution informs the individual in writing that the technical data may not be transferred to other foreign persons without the prior written approval of the Government’s Office of Defense Trade Controls.

ii. EAR Requirements

Release of controlled technology and source code in the U.S. by U.S. universities to their bona fide and full time regular employees is authorized provided that:

- The employee’s permanent residence throughout the period of employment is in the U.S.;
- The employee is not a national of a destination listed in Country Group D:5;
- The university informs the individual in writing that the “technology” or source code may not be transferred to other foreign nationals without prior U.S. Government authorization; and
- The obligation to not transfer technology extends beyond the tenure of employment at the University.

Using either version of this exemption involves appropriate documentation and recordkeeping; however, the EAR version also incorporates a requirement to ascertain and document compliance with EAR end-use and end-user prohibitions. Similarly, no “technology” controlled for encryption reasons or “technology” or source code controlled for Missile Technology reasons may be released under this exemption. Since a significant number of ECCNs are subject to these controls, this may limit the utility of the EAR exemption.

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21 22 CFR §125.4(b)10  
22 22 CFR §126.1  
23 15 CFR §740.13(f)  
24 15 CFR §740 (Supplement No. 1)
E. TEMPORARY IMPORTS, EXPORTS, RE-EXPORTS, AND TRANSFERS (IN-COUNTRY) (TMP)²⁵

Contact UNH’s export compliance staff prior to traveling with items such as equipment, computers, or data. Most off-the-shelf, mass-market items will not require an export license unless you travel to (or through) a country subject to comprehensive sanctions (i.e., Cuba, Iran, North Korea, Sudan, or Syria).

In most instances, a “tool of trade” exception may be used while traveling with controlled items, technology, and software; however, use of the exception must be documented prior to traveling using the Export License Exception (TMP) Certification form²⁶.

Equipment and data taken abroad using the “tool of trade” exception:

- May accompany the traveler or be shipped up to one month prior to their departure (or any time after departure);
- Must be in the “effective control” of the traveler for the duration of the trip;
- Must not be out of the U.S. for longer than 12 months unless fully consumed or destroyed in the normal course of use abroad.

Software taken abroad using the “tool of trade” exception must be protected against unauthorized access using measures such as:
- Secure connections when accessing IT networks;
- Use of password systems; and
- Use of personal firewalls.

The “tool of trade” exception may not be used:
- For equipment or data subject to the International Traffic in Arms Regulation (ITAR);
- To travel to an E1 country;
- To release technology abroad that isn’t otherwise licensed for release;
- For foreign production or to provide technical assistance;
- For encryption technology

Returning from abroad with equipment can be made easier by working with U.S. Customs and Border Protection (CBP) prior to your departure. Equipment that has been registered with CBP before you leave is allowed to return to the U.S. duty-free. Contact a local CBP Port (e.g., Logan Airport) for additional information about completing necessary CBP Forms.

As mentioned above, you are free to take and openly share or discuss published or publicly available information or information generated under Fundamental Research. However, you cannot take or share data or information that is in any way export-restricted (e.g., related to export controlled technologies, proprietary information, or is information resulting from a project aimed at generating proprietary results). Controlled or restricted data or information, including any information provided under an NDA, should be removed from laptops, PDAs, or other portable storage devices (e.g., flash drives and

²⁵ 15 CFR §740.9
²⁶ https://rit.sr.unh.edu/docs/export-controls/EXPORT_LICENSE_EXCEPTION.dotx
smartphones) before you leave the U.S.

IV. UNH Export Compliance and Organizational Structure

A. Statement of Compliance

The University of New Hampshire intends to comply fully and completely with all United States (U.S.) export control laws and regulations, including those implemented by the U.S. Department of Commerce (DOC) through its Export Administration Regulations (EAR) and the U.S. Department of State through its International Traffic in Arms Regulations (ITAR) as well as those embargo regulations imposed by the U.S. Treasury Department through its Office of Foreign Assets Control (OFAC).

As a public institution of higher education, UNH is also committed to maintaining the open exchange of research and scholarly information both within the University and between the University and the public as a core value. UNH employs foreign nationals, matriculates an international student body, and hosts visiting foreign scholars in connection with international exchange programs, teaching, and research. UNH intends to continue to employ foreign nationals and host international students and scholars in a welcoming manner while also ensuring compliance with U.S. laws and regulations.

B. Policies: Export Compliance; Classified Work; Openness, Access, and Participation in Research and Scholarly Activities

The University of New Hampshire recognizes its legal responsibilities to comply with pertinent regulations regarding the use, release, and exporting of export-controlled technical data, information, materials, and equipment in all activities conducted under the auspices of UNH, including outreach, scholarly, research, and teaching activities. Accordingly, as of 2017, UNH has adopted and will maintain a formal policy and underlying procedures for compliance with federal export control regulations. UNH strives to ensure that all members of its community -- whether staff, faculty, students, consultants, subcontractors or visitors -- understand and adhere to this policy.

UNH has also established and maintains policies on the performance classified work and on the requirement for openness, access, and participation in research and scholarly activities. The policies declare, in the main, that (1) UNH as an institution does not conduct classified work -- although UNH researchers may receive classified information to assist in the development of unrestricted, fundamental research projects if the information is stored off-campus; and (2) that instruction, research, and service will be accomplished openly for the free exchange of ideas among faculty and students and without prohibitions on the publication and dissemination of the results of academic and research activities in any forum -- classroom, laboratory, seminar, meeting, and elsewhere.
C. UNH Export Control Personnel

The UNH export control program is a distributed compliance program with certain critical functions spread across key departments and units located throughout the University. Many of these units are embedded within administrative functions located in central administration and the business offices of Colleges. Overall, the “footprint” or reach of export compliance is university-wide and relies on the Office of Contracts and Export Controls for coordination, information sharing, and management of the program.

i. Defense Trade Senior Management Information

As specified in our DDTC registration (Form DS-2032) UNH has designated the following Senior Officers (in blue shaded boxes in Figure 1) as primary administrators of the UNH defense trade program:

Dr. Mark W. Huddleston, President
Dr. Nancy M. Targett, Provost
Dr. Jane A. Nisbet, Senior Vice Provost for Research

![Figure 1](image-url)
ii. Roles and Responsibilities for Export Controls Compliance

Senior Vice Provost for Research (SVPR)

The SVPR is the university official with ultimate responsibility for compliance with export and sanction related regulations.

Contracts and Export Controls (CEC)

CEC, a unit under the SVPR, is the functional administrative unit at the University of New Hampshire charged with the responsibility for oversight of compliance and recordkeeping of all applicable exports and regulated transactions.

The Director of Contracts & Export Controls:

- Serves as a liaison between UNH and federal agencies regarding export control matters;
- Mitigates risk to UNH and its employees and ensures compliance with all federal export control regulations;
- Conducts appropriate monitoring of research and non-research related activities (e.g., travel, payments, and shipments abroad) as they relate to export control;
- Drafts export control determinations including equipment classifications and license exceptions/exemptions; identifies and recognizes embargoed and sanctioned countries; screens end users and countries;
- Signs and submits license applications and institutional registrations;
- Assists Internal Audit in the conduct of compliance and program effectiveness assessments;
- Serves as a resource and advisor to faculty, students, and staff, and actively engages clients to use export control resources;
- Develops, implements, and delivers educational materials and training programs covering all matters of export control; and
- Develops policy and procedures relative to export control compliance and manages continuous improvement of compliance programs.

Faculty

Faculty members have expert knowledge of the type of information and technology being utilized in their university activities, including research projects, presenting at conferences and discussing research with fellow faculty, students, and collaborators.

As set forth in the UNH policy on Compliance with Federal Export Control Regulations, faculty members who work with, or have access to, export controlled technical data, information, materials and equipment share in the responsibility of export control compliance. Prior to beginning any research project or other activity that may be subject to export controls, faculty should notify the CEC that the activity is planned. Faculty members are responsible for:

- Consulting with and providing assistance to the CEC to ensure that controlled technical data or technology used, produced, or developed by them, or under their supervision, is categorized correctly under export control regulations;
- Knowing and complying with the terms and conditions of their agreements and funded awards, including export controls and limitations, if any, on publications of research data and results;
- Assisting in preventing unauthorized exports and, through the CEC, applying for government licenses where appropriate;
- When applicable, developing and adhering to a technology control plan for controlled items, technical data, and software; and
- Ensuring that staff, students, and trainees under their supervision are made aware of any applicable requirements and that they receive adequate training in how to conduct their activities in compliance with those requirements.

**Sponsored Programs Administration (SPA)**

SPA ensures that externally sponsored activities are reviewed for export compliance red flags. SPA personnel are trained to assess potential export control concerns associated with UNH programs and route all issues to CEC for assessment and disposition.

**UNHInnovation (UNHI)**

UNHI ensures that all Patent applications are secured until such time as they are filed and become “publicly available.” Fundamental research generated technology and information contained in the patent application is not public domain until the patent is processed, typically 18 months after submission. Information about the invention that is not publicly disseminated via the patent application, journal articles, or other public venues is not public domain. Information left out of the patent, patent application and other publicly available documents such as know-how is not public domain.

**Internal Audit (IA)**

IA should provide feedback to CEC on compliance with export controls requirements during routine scheduled departmental and college audits. CEC will share export information necessary for these audits with IA.

**Environmental Health & Safety (EH&S)**

EH&S ensures institutional compliance with, among other things, biological agents, chemicals, and other hazardous materials and maintains a register of all agents, chemicals, and other hazardous materials, including those that are controlled both on the CCL and the USML. EH&S reviews domestic and international shipping requests and ensures that all documentation and U.S. laws are followed.

**Finance & Administration (F&A)**

The various units under F&A:
- Work with CEC to perform restricted party screening on international financial transactions for compliance with applicable OFAC regulations;
- Track the purchase, custody, and disposal of ITAR-restricted defense articles, and other export regulated items as deemed necessary by CEC;
- Respond to CEC requests for citizenship information to ensure international employees and foreign exchanges are in compliance with export and sanction laws.
**USNH Disbursement Services (UDS)**

UDS works with CEC to conduct Restricted Party Screening on foreign disbursements.

**UNH Foundation (UNHF)**

In coordination with CEC, UNHF should screen international financial transactions for compliance with applicable export regulations and restricted party lists.

**General Counsel & Secretary (GCS)**

GCS attorneys provide assistance to CEC on legal issues associated with compliance. GCS attorneys working on behalf of USNH campuses also forward documents that contain possible export control issues to CEC for advice and disposition.

**UNH Global (UNHG)**

UNHG provides university-wide services related to international studies, Memoranda of Understanding (“MOU”) between UNH and foreign institutions, and study-abroad programs. UNHG also manages the International Travel Registry and provides CEC with foreign travel information (i.e., destinations and trip purpose) from the registry.

**Office of International Students & Scholars (OISS)**

OISS processes all visa requests on behalf of the University. OISS reviews visa requests and submits all J1 applications related to activities taking place in colleges to CEC for compliance assessment. OISS coordinates with CEC for I-129 (Petition for Nonimmigrant Worker) attestations.

**Information Technology Security (ITS)**

ITS ensures UNH remains compliant while undertaking activities involving information that requires safeguarding or dissemination controls pursuant to and consistent with applicable law, regulations, and government-wide policies (e.g., CUI, FERPA, HIPAA).

**UNH Procurement Services (UPS)**

UPS conducts Restricted Party Screening on all vendors. UPS should ensure that the procurement of items on the CCL and/or USML are identified and assigned a USML Category or ECCN, as appropriate. UPS should also ensure that controlled assets are appropriately disposed of.
V. Training

A. Senior Management Training

Training is provided to senior management to ensure they are aware and invested in their roles and responsibilities for the company’s export compliance. Training includes university-specific export issues, an overview of UNH’s export management and compliance program, and an explanation of potential liabilities for noncompliance. Outcomes should include strategies for communicating management commitment, allocating appropriate resources, and enhancing and nurturing a culture of compliance throughout the organization.

B. Introductory and RCR Training

UNH offers introductory export management and compliance training (aka awareness training) and has opted to make the training part of the curriculum for Responsible Conduct of Research (RCR) training. Training can be accomplished in a variety of ways, including two versions that are available online:

- [https://rit.sr.unh.edu/training/rcr.shtml](https://rit.sr.unh.edu/training/rcr.shtml)
- [https://about.citiprogram.org](https://about.citiprogram.org) (See Appendix IV)

Export Compliance Staff schedule in person training through the Office of the Senior Vice Provost for Research (e.g., “Lunch and Learns”) and are available to provide training to any UNH Department upon request.

Introductory awareness training is meant to:

- Explain the nature, purpose, and scope of the major Export Control regulations in the United States;
- Communicate UNH’s commitment to comply with all U.S. Export Control laws and regulations;
- Explain exports and deemed exports;
- Explain the concepts of “release” and “re-export” under the regulations;
- Define a U.S. person under export regulations;
- Describe the major regulatory exemptions available to universities;
- Review specific “red flags” for potential export violations;
- Review maintenance of the Fundamental Research Exemption;
- Raise awareness about compliance during international travel; and
- Review the consequences for both the company and the individual employee if an export violation occurs.

C. Business and Administrative Unit Training

Export Compliance Staff schedule in person training through the Office of the Senior Vice Provost for Research (e.g., “Research Administration Training Series”) and are available to provide training to any UNH Department upon request.
Business and administrative awareness training covers topics addressed in introductory training and adds discussion relative to compliance around administrative functions, such as: purchasing; international hiring; international shipping; International payments; and Restricted Party Screening. Business and Administrative Units are also encouraged to undertake training to conduct their own Restricted Party Screening using UNH’s instance of the Amber Road software, Export On-Demand.

D. Intermediate Training for Faculty and Staff with Specific Export Concerns

Intermediate training for those faculty and staff with specific export concerns or those who regularly deal with export issues is tailored to their particular disciplines and technologies includes, at a minimum, the following:

- Overview of the purpose and scope of export controls and general prohibitions;
- Specific written operational procedures for export management and compliance;
- Available licenses exemptions;
- License requirements, if applicable;
- Specific “red flags”; Screening procedures;
- The roles and responsibilities of UNH’s export personnel;
- The consequences for both the company and the individual employee if an export violation occurs;
- Requirements for international travel with hardware or technical data;
- Deemed exports;
- Recordkeeping requirements; and
- Anti-boycott requirements, if applicable.

E. Advanced Training for Export Compliance Personnel

Employees who are directly responsible for ensuring the UNH’s export compliance are required to remain current on regulatory requirements, industry practices, and compliance issues. They should attend advanced formal training on at least a yearly basis.
VI. Guidelines and Procedures

All individuals affiliated with UNH who work with, or have access to, export controlled technical data, information, materials and equipment must take reasonable and prudent measures to prevent the disclosure of, access to, and/or use of export-controlled technologies by unauthorized, unlicensed foreign persons. What qualifies as reasonable depends on the circumstances. The following are all examples of measures that project directors and researchers should consider adopting:

- Clearly marking “controlled” technologies;
- Identifying personnel who may lawfully access the technologies;
- Storing hard copies of controlled technologies in locked cabinets or desks;
- Securing access to electronic copies of and communications containing controlled technologies by passwords, user IDs, or other controls;
- Storing technologies in a single location;
- Making only that number of copies of data as is necessary; and
- Requiring all persons with lawful access to controlled technologies to sign a technology control plan.

Appropriate measures are determined on a case-by-case basis and are subject to periodic review. The processes described in the following pages are intended to connect people with varied functions and responsibilities through written guidelines and specific procedures—the intent being to ensure employees are safeguarded by knowing their export control responsibilities.

Detailed guidelines and procedures to identify and manage export compliance are outlined in the pages that follow.

Guidelines and Procedures are provided for:

- Initial Assessment of Externally Sponsored Projects
- Comprehensive Assessment for Externally Sponsored Projects
- Technology Control Plan (TCP)
- Restricted Party Screening (RPS)
- International Students, Scholars, and Foreign Hires
- International Travel and Activities
- International Shipping & Hand-Carrying
- Guidance for Procurement and Disposal of Export Controlled items
- Guidance for Handling Regulated Items
- Export Licensing
- Recordkeeping
A. Initial Assessment of Externally Sponsored Projects

Although violations of export and embargo regulations can occur through any manner of activity, sponsored research is an area of particular concern because it occurs at the nexus of several factors that contribute to the transfer of controlled technologies and information, including:

- Access to and training in the use of advanced technologies;
- Transfer of sensitive/proprietary information;
- Foreign national graduate students/researchers; and
- International collaborative efforts.

That these factors come together in an academic environment, which holds open dialogue and collaboration to be core elements of its mission, only serves to make compliance more difficult, because it makes compliance appear contrary to the institutional mission.

For those sponsored projects where export controls compliance is necessary, a general system of controls will be used both upstream (pre-award) and downstream (post-award) through the life of the project.

Control during the lifecycle of a sponsored project (Figure 2) is based on awareness and training of faculty, students, and central and RC-unit staff. Awareness and training can happen at numerous points in the system.

![Figure 2: Schematic depicting sponsored project lifecycle and control points.](image)

The best opportunity to capture projects is the pre-award stage when a Proposal Routing Form (aka “yellow sheet”) (Appendix I) is submitted to SPA. The Yellow Sheet directs researchers to indicate when their project involves defense articles; international collaboration; foreign travel; transfer of information...
or equipment to foreign sites or collaborators; foreign visitors; or contractual restrictions on publication and foreign national participation. SPA will translate this information to attribute fields that can be assigned in InfoEd when projects are initially loaded. Export Compliance Staff personnel will receive reports, from the InfoEd system, of projects with export control compliance indicators.

The raising of these flags allows for a proactive effort to maintain the fundamental research exemption during negotiation. It also provides information concerning which researchers should undergo awareness training or should, depending on the nature of their project, consider adopting more rigorous controls.

Pre-award Procedures

Sponsored Programs staff will review proposals and awards for “red flags” (See below). Review documentation will be forwarded to Export Compliance Staff for consideration and for recordkeeping purposes.

In the event that their review determines that export control measures are required for project performance, Export Compliance Staff will issue written directives and ask the Principal Investigator to develop and certify their commitment to comply with a Technology Control Plan (TCP) (see Appendix III) prior to account set-up.

Pre-Award “Red Flag” Indicators

- Foreign sponsor(s), collaborator(s), subcontractor(s) or consultant(s)
- Foreign travel or shipping
- Proprietary information (NDA, CDA, PIA, MTA, etc.)
  - Scope of work is identified as export-controlled
  - IP, publication or dissemination restrictions are anticipated
  - Foreign sponsor or collaborators
  - Foreign place of performance, travel or shipping
- Prime Sponsor is DoD, NASA, DoE, DHS or an intelligence agency
- Funding announcement (Guideline, BAA, RFP, RFQ, etc.) reference to:
  - U.S. Government Security classification or clearance requirement
  - Specific reference that research is subject to Export Control Regulations (e.g. statements indicating the research is subject to the International Traffic in Arms Regulations)
  - Access or participation prohibitions based upon citizenship
  - Sponsor approval of foreign-national personnel or prohibition of foreign persons
  - Publication or dissemination restrictions (sponsor approval required to publish or disseminate, or UNH is prohibited from publishing, disseminating results)
  - Information / data protection requirements (Personally Identifiable Information), IT security standards, or other identifiers

Post-award Procedures

Post-award control points are generally less effective but can help to reinforce compliance activities during the life of the award. Post-award issues commonly arise during Project Management activities, e.g., hiring, purchasing, shipping. Export Compliance Staff are currently working with these functional areas on an “as needed” basis while SOP’s are developed.
B. Comprehensive Assessment for Externally Sponsored Projects

Procedures

1. Gather Data
Gather all programmatic data concerning a project: participants / collaborators and their nationality, proposal, Statement of Work / Terms and Conditions / contract, type of technology involved (EAR, ITAR, or neither) and deliverables.

2. Jurisdictional/Classification Analysis
Agency jurisdiction and proper commodity/technology classification (i.e. military or non-military) should be made when reviewing data for obvious restrictions or subjects that may be controlled if awarded (i.e. DoD contracted research, pass-thru, proprietary, or restrictions on participation or publication).

3. Participant Review

Restricted Party Screening: Screen for restricted parties/entities using Amber Road software.

Foreign National Participants: Foreign nationals (students) permitted to work on research projects are only a concern if the research does not qualify for an exemption.

4. Review program for export control indicators pursuant to check sheet (Appendix II)

5. Applicability of Exemptions
Research qualifying for an exemption is not subject to export controls. Most research (particularly grants) will qualify for the Fundamental Research Exemption (FRE). Some sponsored research (usually government contracts) may contain restrictions that nullify the FRE and thereby subject the research to export controls.

To qualify for FRE, the agreement cannot contain restrictions typically found in proposal request / award clauses. Such clauses must be negotiated out of the agreement in order to qualify. The research must also be conducted within the U.S. at an institution of higher learning. Defense research is regulated under ITAR and is funded from 3 areas of the Defense’s budget (e.g. 6.1 Basic Research, 6.2 Applied Research, 6.3 Advanced Technology Department). Defense research may or may not qualify for an exemption, depending upon contract requirements. The “use” of ITAR articles by foreign nationals (the USML word for “item”) requires licensing. International shipments of tangible items do not qualify for FRE.

If the project does not qualify as FRE, review the technologies with the PI to determine if they are controlled under EAR CCL or ITAR USML. If they are not on either control list, the project may be proprietary, but not otherwise subject to export controls.

Export Compliance personnel must rely upon the UNH PI, as the individual most knowledgeable about the technologies, for assistance in ascertaining whether or not the technology is on either the EAR or ITAR lists.

- EAR CCL
  Although the results (i.e., “outputs”) of Fundamental Research are not subject to export controls,
and can be shared without a license, hardware and software items produced in the course of research still may be subject to export controls when physically exported from the United States. Hardware and software used in the conduct of Fundamental Research (i.e., “inputs”) are subject to export controls and their use may require an export license. The use of unpublished and proprietary information as research inputs may also be subject to export controls and require an export license.

It is imperative to qualify the research as FRE (if possible) in order to ensure that the project’s results fall outside the scope of the EAR.

Research inputs not qualifying as FRE or Public Domain may require a “deemed export” license if all of the following criteria of the controlled technology are released (the “deemed export” threshold): operation, installation (including on-site installation), maintenance (checking), repair, overhaul and refurbishing.

- **ITAR USML**
  Defense articles used as research inputs do not qualify for FRE; however, technical data may if it is already in the “Public Domain” or comprises general science and mathematics. Defense articles on campus require a Technology Control Plan, and only licensed foreign nationals are permitted access. Bona Fide Employees qualify for an ITAR exemption, and are permitted access to defense articles so long as they are not from an ITAR Proscribed country.

6. **Negotiation of Contracts and Grants**
Contractual terms must be reviewed in order to determine whether export controls exemptions might be undermined. Problematic clauses should be negotiated out on the basis of institutional policy. Determining whether a project is subject to export controls will also require a detailed understanding of the statement of work and the commodities and technology involved in the research as well as a thorough understanding of the project plan (e.g., project participants, citizenship of all involved, end users, and end use). If a project is subject to export controls, Export Compliance Staff, in consultation with Sponsored Programs Administration, will take further required action.

7. **Determine if there are any other General Areas of Concern:**
- Physical exports (International Shipments/Deliverables)
- Deemed exports
  - Foreign sponsors or collaborations
  - Hosting visiting scientists
- Foreign travel

**Restricted Research**
In those situations where UNH approves an award that is affected by export controls, Export Compliance Staff will coordinate with the PI and Sponsored Programs on the development and implementation of a Technology Control Plan. This may involve issuing notices, applying for licenses, restricting access and participation, compartmentalizing aspects of the project, or modifying the scope of the research.

**Restricted Access**
In awards not qualifying for an exemption or with technologies or equipment listed on the ITAR USML, it may be necessary to restrict foreign national involvement (including access to stored data or information on computer networks) until:
• Identification of these research personnel and their country of nationality is verified by Export Compliance Staff as not subject to controls or until approval by the Government Contracting Officer is received; or
• The foreign nationals are licensed by the appropriate Government agency.

Publication Restrictions
In rare instances, subject to UNH’s policy on “Openness”27, UNH may accept a publication restriction, i.e., proposed publications would require prior approval by the Government. In such cases, a licensing determination will be performed to establish whether an export license is needed.

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27 https://www.usnh.edu/policy/unh/viii-research-policies/openness-access-and-participation-research-and-scholarly-activities
C. Technology Control Plan (TCP)

A TCP is a document that formalizes the procedures that UNH will use to control access to and release of export controlled items, information, materials, etc. in accordance with federal export regulations. A TCP is also a mechanism for documenting that research personnel are aware of their compliance responsibilities.

A TCP should be used when:

- A project or activity involves the receipt of unclassified, controlled information from an outside party or sponsor under a nondisclosure agreement or sponsored research agreement;
- Projects or activities are not considered Fundamental Research; or
- Projects or activities involve technology and software associated with export-controlled equipment.

TCPs need to be completed and approved prior to handling export-controlled information associated with a research project.

A TCP generally includes:

- A statement of institutional commitment to complying with applicable regulations;
- Commodity Jurisdiction (which agency has authority) and classification (what type of item/information is involved);
- A description of physical security measures;
- A description of information security measures;
- Personnel requirements; and
- Administrative elements (i.e., inspections, training, recordkeeping, etc.)

The Office of Contracts and Export Controls (CEC) provides a project-specific TCP template (see Appendix III) to serve as a starting point, with the intention that it will be adapted to comply with the specific regulatory requirements and to accommodate the particular University project or program.

The completed TCP should be sent to CEC for review and comment BEFORE collecting the required signatures on the TCP Certification. Once CEC has approved the safeguards and confirmed the eligibility of the identified users the PI will be notified. At that point the PI will need to distribute the TCP to the authorized users and have them sign the TCP Certification. Once all of the user signatures have been obtained the signed form(s) must be returned to CEC for final approval.
D. Restricted Party Screening (RPS)

1.0 Purpose

Restricted party screening is a compliance control that prevents UNH from doing business with prohibited or restricted entities, including governments, companies, and individuals. The U.S. Government, as well as governments of various other countries, maintain lists of these types of entities. Under U.S. export control laws, UNH has a duty to exercise “reasonable care” in investigating the parties involved in, and the nature of, its export transactions. Screening entails checking to see if an entity that UNH proposes to engage appears on one or more of these lists.

Depending on the nature of the list and the transactions in question, UNH may be legally prohibited from engaging in certain activities with listed entities. Prohibited activities could include hiring, contracting with, selling to, shipping to, receiving payment from, making payment to, or providing access to controlled technologies. Additionally, as a matter of reputation and out of an abundance of care, UNH may choose not to engage in certain transactions with listed entities, even if not legally prohibited.

2.0 Requirements

2.1 Screening

All parties in an export-controlled transaction should be screened, with exceptions as noted below. This includes both domestic and international transactions.

2.1.1 A software tool should be used for screening. The software tool should employ a “fuzzy logic” algorithm to identify close as well as identical matches. UNH currently subscribes to Amber Road for their software as a service solution, Export On-Demand, which has “fuzzy logic” capabilities.

2.1.2 Because watch lists change and are often effective immediately, the automated screening tool must provide dynamic screening of previously screened entities. Export On-Demand has dynamic screening capabilities for partner records and ad hoc screening for individual transactions.

2.1.3 Screenings are performed across functions and RC units but reviewed centrally by a representative of Contracts and Export Controls and/or Research Integrity Services in order to ensure screening procedures are consistent.

2.2 Parties to be screened

Parties to be screened, as required, include, but are not limited to:

- Countries (travel destinations)
- Sponsors
- Suppliers and subcontractors
- Consignees and intermediate consignees
- Freight forwarders
- Banks or other financial institutions
- Visiting scholars and the organizations they represent
- Consultants
- New hires
- Prospective Graduate Students
- Contract workers
- Service providers
- Contractors
- Countries (through transit)
- End users
- Recipients of technical data
- Other business partners
2.3 **Screened Transactions**
Screenings of transactions should be performed in accordance with the following matrix:

<table>
<thead>
<tr>
<th>Party to be screened</th>
<th>Screening event</th>
<th>Screening Party</th>
</tr>
</thead>
</table>
| Sponsors, potential sponsors, suppliers, subcontractors and teaming partners        | • First step in the process when considering new sponsors, Subcontractors, and service providers  
  • Prior to accepting any form of solicitation or contract.                       | PI, SPA                                             |
| Manufacturers, suppliers, or any other source of export controlled information      | • Prior to engaging in any procurement activity.  
  • Prior to executing any NDA.  
  • Prior to order issuance.                                                       | Procurement Services                                 |
| All parties to the export or import transaction, including consignees, freight forwarders, and intermediate consignees; visitors | • Prior to submitting license or agreement applications.  
  • Prior to making exports.  
  • Prior to making imports.                                                        | Contracts and Export Controls, RIS                   |
| Banks or other financial institutions                                               | • Prior to making, transferring or accepting funds                                 | BSC’s, VPFA Staff, USNH Financial Services           |
| Potential new employees (int’l hires) Foreign Graduate Students                    | • Prior to making an offer of employment or admission;  
  • Prior to endorsing I-129; or  
  • Prior to first day of employment.                                               | Faculty, BSC, Human Resources, OIIS (via attestation) |
| Contract labor personnel, visiting scholars                                         | • Prior to allowing access to a facility; or  
  • Prior to issuing invitation onto campus                                          |                                                     |

2.4 **Limited Exceptions to Screening**
The following entities are exempt from the screening requirement:
- U.S. Government agencies
- USNH campuses
- Additional limited exceptions as approved by the OSVPR.

2.5 **Screening Responsibilities**

2.5.1 UNH screens against the restricted-party lists provided and maintained by their software.
providers, e.g., Amber Road.

2.5.2 Transaction screening at various points during the transaction (e.g., initiation, payment, and delivery) relies upon the dynamic screening in the Export On-Demand software.

2.5.3 The restricted party screening process is illustrated in the diagram detailed in Attachment A.

2.5.4 Screening matches and potential matches:

- Absent a match, an activity can proceed.
- Transactions must be suspended for near matches (i.e., false matches & coincidences) unless and until these matches are cleared. To minimize disruption, near matches should be cleared promptly.
  - Contract & Export Controls or RIS personnel will solicit additional information (e.g., date of birth, driver’s license numbers, addresses, etc.) and follow up with the listing agency if necessary to clear false matches and coincidences. The determination that a match was in error must be documented, and should include the RPS Verification Statement included at Attachment B.
  - If a party is unwilling to provide the information necessary to investigate and resolve a near match, the transaction should be suspended and their identity provided to an appropriate export controls enforcement official.
- Transactions must be suspended for an actual screening match (i.e., the screened party IS the listed party). Depending upon the nature of the listing, the legal applicability, and an evaluation of reputational concerns, Contract & Export Controls or RIS personnel will determine that the transaction either has to be stopped or that it may proceed.
  - There are instances where a match is made but the citation does not prohibit a particular business transaction. That said, UNH may not allow parties that are debarred, suspended or otherwise excluded from participation in Federal programs or activities to participate under awards, subawards or contracts. The determination that a match was made but not relevant to the transaction must be documented.

2.5.5 Thorough screening and resolution of false positives may require additional resources and techniques. Attachment C includes additional screening methods that may be employed.
ATTACHMENT A

Restricted Party Screening Process

Restricted Party Screening (RPS)

Is there an RPS match?

Yes

Is it a direct match? (i.e., Citations confirmed)

No

No

Investigate to exclude coincidences and near matches. Verify the name and address and get DL, passport, and VISA information. Contact listing agency and get signed RPS Verification form.

Yes

Suspend Activity

Record & File RPS documents

Notify the Screened Party (i.e., transaction cannot be completed)

Record & File RPS documents

GO!

Proceed with activity

STOP

Verified (not a match)
ATTACHMENT B

Restricted Party Screening Verification Statement

I, ______________________, certify that I am not the same person(s) or entity listed on the restricted party screening performed by the University of New Hampshire. Further, I certify that I am presently not facing any penalties or have affected privileges with the U.S. Government regarding export/import regulations. The University of New Hampshire has provided a printout of the list of name(s) and/or address(es) which resulted from conducting my name/entity search, and I verify that the names/entity, residences, and affected privileges have no relation to me.

Prior to entering the facility and/or proceeding with a business transaction/activity, I have provided the University of New Hampshire a copy of my driver’s license (or Visa/Passport) which University of the New Hampshire will keep in their files for verification and record keeping purposes only.

Name: __________________________ Date: ________________

Signature: ______________________
Person being screened is from a named entity, i.e., Sichuan University.

BIS, view students of an entity to be lower risk than faculty (which are employees/agents of the entity). If solely fundamental research, not subject to EAR; therefore, issue becomes the location of the visitor, and ensuring restriction of access to controlled items. Use a TCP to accomplish this, and do not apply for license. BIS agrees with this approach, even for faculty visitors.
E. International Students, Scholars, and Foreign Hires

Background

As a public institution of higher education, UNH employs foreign nationals, matriculates an international student body, and hosts visiting foreign scholars in connection with international exchange programs, teaching, and research. It is UNH’s intent to employ foreign nationals and host international students and scholars in a welcoming manner while also ensuring compliance with U. S. laws and regulations governing the export of controlled commodities and technical data, as well as U.S. sanctions and embargoes.

Besides the shipment of physical items abroad, an export includes any release of export-controlled technology or source code to a foreign national. Technology or software is “released” for export through: (i) visual inspection by foreign nationals of U.S.-origin equipment and facilities; (ii) oral exchanges of information in the United States or abroad; or (iii) the application to situations abroad of personal knowledge or technical experience acquired in the United States.

While UNH’s Office of International Scholars and Students (OISS) assists with issues surrounding visas and immigration, the Office of Contracts and Export Controls (CEC) assesses the need for export licenses for international students, foreign national visitors, and foreign hires. CEC is also responsible for applying for export licenses on behalf of UNH.

International Students

Foreign National Undergraduates

- Catalog Courses and/or information concerning general scientific, mathematical, or engineering principles commonly taught in schools, colleges, and universities are exempt from export control laws.
- Undergraduates participating in more advanced coursework (i.e., capstone projects) should be treated as Foreign National Graduate Students (see below).

Foreign National Graduate Students

Foreign national graduate students working on a project may be required to obtain an export license if:

- Publication of the research results is restricted, delayed, or subject to approval by a sponsor of the project;
- Access and dissemination controls (e.g., in a grant or contract) limit the ability of foreign nationals to participate in or access the results of a project without sponsor approval;
- The foreign student requires access to export controlled equipment or technology in order to conduct their research; or
- The area of study or topic of a class is prohibited by a U.S. Treasury Department sanction or embargo against the student’s country of citizenship.

Dissertation research must meet the standards for Fundamental Research to be exempt from export control regulations.

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28 A “foreign national” is any person who is not a U.S. citizen, not a U.S. permanent resident (i.e. a “green card” holder), or not an individual who has been legally granted asylum or refugee status in the U.S.
Foreign National Visiting Scholars

Before collaborating with foreign nationals (either here on campus or abroad), be sure that your planned activities qualify as fundamental research. Release of technology or controlled data to a foreign national visiting scholar may be subject to export control laws. Therefore, all visiting foreign nationals should be screened against restricted party lists to ensure compliance with regulations.

A visiting scientist agreement may need to be signed prior to the visiting scholar’s arrival. This agreement is ordinarily entered into between the visiting scientist and the sponsoring department and their Dean.

Foreign Hires

The revision of Form I-129, “Petition for a Nonimmigrant Worker,” to include an Export Control Attestation, underscores the nation’s sensitivity regarding the “deemed export rule”, which stipulates that releasing controlled information or data to a foreign national within the United States (or abroad) is deemed to be an export to that foreign national’s home country.

This attestation within the H-1B and J-1 visa application package asks UNH to affirm that either (1) the prospective employee will not be exposed to controlled technology or information that would require an export license; or (2) an export license will be secured by UNH prior to the employee being given access to that controlled technology or information. In order to complete this part of the application, the department sponsor, Chairperson, and Dean must assess and understand the controls that apply to the sorts of technology/technical data that the prospective employee will require access to as part of their employment.

Exact job duties for a new position might not be known during the hiring process; so, the need for a deemed export license could be unclear. Many foreign nationals employed at universities (typically under an H-1B visa) either do not conduct technology-related research or conduct only “fundamental research,” which is exempt from export controls. However, although such research may be fundamental, deemed export licenses may still be required in the conduct of the research if controlled technology or technical data is needed to generate fundamental research results. Also, once a foreign national is employed, it may be necessary to consider changes to their duties and whether those changes result in the need for an export license.

Note: UNH, and the signatories to the I-129 (personally), may be subject to criminal sanctions if the information on the form has been misrepresented. Such criminal penalties would be in addition to penalties imposed under the EAR and the ITAR for export violations (e.g. up to $1 million per violation, up to 20 years in jail, denial of export privileges, and debarment from government contracts). Thus, it is crucial that you contact Contracts & Export Controls if you have any question as to whether the foreign hire will have access to export controlled technology or data.
F. International Travel and Activities

International travel and activities are an important part of UNH’s research and educational programs. It is UNH Policy\(^{29}\) that every traveler going abroad on University business must register their trip on the International Travel Registry\(^{30}\) for a minimum of two weeks before the expected departure date and shall update the Travel Registry as additional information becomes available or changes occur throughout the duration of the trip. Registering your international trip enrolls you in the International SOS Travel Assistance and Insurance program and facilitates communication and support in the event of an emergency abroad. Additional information on risk management policies, guidelines and procedures is also available online\(^{31}\).

International travelers also need to consider that there are important regulations regarding certain proposed destinations, equipment they plan to take along with them, the activities they will undertake while traveling, and the individuals and/or institutions with whom they plan to collaborate. Government licenses may be required for certain exports, collaborations, or exchanges of information; and federal regulations and embargoes/economic sanctions may prohibit collaborations with certain universities, companies, and individuals altogether.

From an export compliance perspective, travelers should consider three principal matters:

- Their destination
- The business purpose for their trip: and
- The equipment and/or information they plan to take with them.

**Destination**

Travel to most countries, other than Cuba, can be accomplished without a license; however, particular activities involving countries under a U.S. sanction or embargo may require specific government approval. Being involved in financial transactions and providing services of value may also be strictly prohibited. Information concerning U.S. Sanctions programs and country specific constraints is available from the U.S. Department of the Treasury\(^{32}\).

UNH’s International Travel Policy generally prohibits student activities in countries for which a U.S. State Department Travel Warning is in effect and in other potentially high risk destinations.

**Business Purpose**

A few simple steps can help ensure that you do not inadvertently export restricted technology or provide any type of assistance or benefit to a sanctioned or blocked entity. Keep the following guidance in mind as you plan your international travel activities:

*Presentations*

When making presentations about research in an international setting, including international conferences in the U.S. where participation could include foreign nationals, you must ensure that you limit your presentation (including visual materials) to information or data that is published, or is publicly available.

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\(^{29}\) [https://www.usnh.edu/uni/iii-administrative-policies/o-international-travel-policy](https://www.usnh.edu/uni/iii-administrative-policies/o-international-travel-policy)

\(^{30}\) [https://www.unh.edu/global/international-travel-registry](https://www.unh.edu/global/international-travel-registry)

\(^{31}\) [https://www.unh.edu/global/risk-management-tools](https://www.unh.edu/global/risk-management-tools)

\(^{32}\) [https://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx](https://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx)
available, or that qualifies as Fundamental Research. Do not include any proprietary, unpublished, or export-restricted information or data as that may constitute an unauthorized export.

**Collaborative Interactions**
Published or publicly available information or information generated as the result of Fundamental Research may be discussed openly, as long as the recipient is not a sanctioned or otherwise blocked entity. Contact UNH’s Export Compliance Staff for help in screening international collaborators.

Remember that, although the results of fundamental research are not subject to export controls, and can be shared without a license, physical articles, technology, or software used in the conduct of or generated under fundamental research are subject to export controls and may require an export license.

**Field Work**
Research performed outside of the U.S. may not be considered fundamental research and would therefore be subject to export controls until the results are published or otherwise made publicly available. Contact UNH’s Export Compliance Staff prior to disclosing information or data generated during international field work to ensure that the information is not export restricted.

**Provision of Financial Assistance**
In order to avoid running afoul of OFAC regulations prohibiting the provision of financial assistance to any blocked or sanctioned individual or entity, activities that involve payment to a non-U.S. person, business, or organization should be verified against a sanctioned party and entity list. Contact UNH’s Export Compliance Staff for help in screening international financial transactions. Screening of either individuals or entities can usually be accomplished very quickly.

**Traveling with Equipment, Computers, and Research Data**
Contact UNH’s Export Compliance Staff prior to traveling with items such as equipment, computers, or data. Most off-the-shelf, mass-market items will not require an export license unless you travel to (or through) a country subject to comprehensive sanctions (i.e., Cuba, Iran, North Korea, Sudan, or Syria). In most instances, a “tool of trade” exception may be used while traveling with controlled items, technology, and software; however, use of the exception must be documented prior to traveling using the Export License Exception (TMP) Certification (Attachment 1).

Equipment and data taken abroad using the “tool of trade” exception:

- May accompany the traveler or be shipped up to one month prior to their departure (or any time after departure);
- Must be in the “effective control” of the traveler for the duration of the trip;
- Must not be out of the U.S. for longer than 12 months unless fully consumed or destroyed in the normal course of use abroad.

Software taken abroad using the “tool of trade” exception must be protected against unauthorized access using measures such as:

- Secure connections when accessing IT networks;
- Use of password systems; and
- Use of personal firewalls.
The “tool of trade” exception may not be used:

- For equipment or data subject to the International Traffic in Arms Regulation (ITAR);
- To travel to an E1 country (i.e., Cuba, Iran, North Korea, Sudan, or Syria);
- To release technology abroad that isn’t otherwise licensed for release;
- For foreign production or to provide technical assistance;
- For encryption technology

As mentioned above, you are free to take and openly share or discuss published or publicly available information or information generated under Fundamental Research. However, you cannot take or share data or information that is in any way export-restricted (e.g., related to export controlled technologies, proprietary information, or is information resulting from a project aimed at generating proprietary results). All controlled or restricted data or information, including any information provided under an NDA, should be completely removed from laptops, PDAs, or other portable storage devices (e.g., flash drives and smartphones) before you leave the U.S.
ATTACHMENT 1

EXPORT LICENSE EXCEPTION (TLP) CERTIFICATION
for Export Administration Regulations (EAR) controlled Items, Technology, and Software

To:          Victor G. Sosa, Director, Contracts & Export Controls
From:        (Print Name)
Date:        
Re:          Export License Exception for Temporary Exports/Re-exports per 15 CFR 740.9(a)

The export of items, technology, commercial software, and encryption code is subject to export control regulations (this includes laptops, PDAs and digital storage devices). The Department of Commerce's Export Administration Regulations (EAR) makes an exception to licensing requirements for the temporary export or re-export of certain items, technology, or software for professional use as long as the criteria to which you are certifying below are met. The exception does not apply to any EAR satellite or space-related equipment, components, or software, or to any technology associated with high-level encryption products. In addition, this exception does not apply to items, technology, data, or software regulated by the Department of State's International Traffic in Arms Regulations (ITAR).

Detailed Description of Items, Technology or Software to which this Certification applies:
[Insert a description of the items you will be taking abroad and the business purpose for doing so.]

By my signature below, I certify that:

1. I will ship or hand-carry the items, technology, or software to [insert country(s)/traveling to] as a "tool of the trade" to conduct UNH business only;

2. I will return the items, technology, or software to the US on [insert return date] which is no later than 12 months from the date of leaving the US unless the items, technology, or software are certified by me to have been consumed or destroyed abroad during this 12 month period;

3. I will keep the items, technology, or software under my "effective control" while abroad (defined as retaining physical possession of item or keeping it secured in a place such as a hotel safe, a bonded warehouse, or a locked or guarded exhibition facility);

4. I will take security precautions to protect against unauthorized release of the technology while the technology is being shipped or transmitted and used abroad such as:
   a. use of secure connections when accessing e-mail and other business activities that involve the transmission and use of the technology;
   b. use of password systems on electronic devices that store technology, and
   c. use of personal firewalls on electronic devices that store the technology;

5. I will not ship or hand-carry the items, technology or software to Iran, Syria, Cuba, North Korea, or Sudan without consulting with UNH's Director, Contracts & Export Controls.

Signed: ________________________________

*Keep a signed copy with you when traveling abroad
G. International Shipping & Hand-Carrying

Disregarding export regulations for both international shipping and hand-carrying of items can result in:

- Costly delays;
- Seizure of equipment;
- Significant fines; and/or
- Imprisonment.

There are significant considerations when shipping or hand-carrying to an international destination that should be resolved prior to undertaking this sort of activity. UNH Export Compliance Staff can assist you with the following:

**Export Classification**

Equipment (no matter its apparent value) should not be shipped until its jurisdiction/classification is known and its licensing requirements are understood.

**Export Licensing Review**

Export regulations may require an export license or documented license exception in order to ship or hand-carry a piece of equipment based on the item’s export classification (including technical data), the destination, the end use, and the end-user.

**Prohibited End-Use and End-Users**

The US government maintains various lists of individuals and entities that US organizations are prohibited from collaborating with or shipping to, and requires an export license for any shipment to a restricted party. There are also general prohibitions which describe activities for which exports are not allowed.

Export Compliance Staff should review your proposed activities and screen potential end-users whenever UNH equipment is exported.

**Embargoed Countries**

U.S. export laws impose strict licensing requirements for certain countries, including Cuba, Iran, North Korea, and Syria, in some instances the government assumes a general policy of denial for shipments to these countries.

Contact Export Compliance Staff regarding specific license requirements before attempting any shipments to a foreign destination or regarding use of TMP for hand-carrying.
H. Guidance for Procurement and Disposal of Export Controlled items

Procurement Activities

Purchasing scientific or technical equipment in a university environment is an essential and often time-sensitive activity. This guidance is intended to provide for the timely coordination of necessary compliance activities between the purchaser, Procurement Services, and Export Compliance.

When purchasing scientific or technical equipment, the source or vendor should be asked to provide information about the particular product’s export control status. Most commonly, this information will take the form of an export control classification number (ECCN). For example, a vendor may indicate that a particular item is controlled by 6A005. Once this information is provided, Procurement Services should forward it to the Export Compliance Staff along with a description of the item being purchased, the name of the UNH employee and department requesting the purchase.

Occasionally, Procurement Services may receive information indicating that the item(s) being purchased are subject to the ITAR, USML, or MTCR. This information may contain any of the foregoing acronyms, and it may also contain a specific category or paragraph (i.e. this item is found on the USML Cat. VIII). This type of information indicates that the article involved could be a defense article. The purchase should be halted and Export Compliance Staff should be notified that this type of language is in a purchasing contract.

It is also possible that a vendor may provide language indicating that the equipment is not for public purchase. Contract terms may specify that the equipment is not approved for public consumption, unlimited distribution, etc. In the event that this type of language is included in a contract it should be flagged and sent to Export Compliance Staff for review, as this may be a vendor’s way of indicating that there are export control restrictions on the particular item.

Surplus Sales and Donations

Physical exports of tangible items and goods should always be screened for license requirements by Export Compliance Staff. This information is shared with staff, faculty and deans during training, but Procurement Services may become aware of physical exports that should be flagged for export control review.

For example, if surplus equipment is being donated to an organization in another country, Procurement Services should provide Export Compliance Staff with the following information:

- The name of the individual responsible for the shipment;
- A description of the equipment or materials being exported;
- The name of the individual and organization receiving the export.

Export Compliance Staff will perform restricted party screening, licensing determinations, and any other due-diligence necessary prior to approving of the export. Export Compliance Staff will apply for any export licenses that may be necessary for the particular transaction. Export Compliance Staff will also work with the individual(s) initiating the export as well as Procurement Services to retain any records necessary to comply with the recordkeeping provisions of export control regulations.
Public surplus auctions for dual use equipment are permitted pursuant to guidance issued by the Bureau of Industry and Security (BIS) within the Department of Commerce. For export control purposes, the guidance issued by BIS addresses the public auction of dual use items. There should not be a need to involve Export Compliance Staff provided that:

- The sales are open to the public;
- The items are not accompanied by notes, operating manuals, technical specs, etc;
- The items are not marked in a restrictive way;
- There are no “red flags” in the transaction, (see examples below); or
- The sale does not include any defense articles or classified items.

In the event that Procurement Services is concerned that an item may be a defense article, classified item, or that other issues such as red flags exist, the item should be flagged and held from public auction while Export Compliance Staff are notified. Additionally, language in the sales contract for all items auctioned to the public should include provisions on export controls; Export Compliance Staff will provide language that is appropriate for this purpose.

Examples or Red Flags:

- The customer or purchasing agent is reluctant to offer information about the end-use of a product.
- The product’s capabilities do not fit the buyer’s line of business;
- The item is incompatible with the technical level of the country to which the product is being shipped. For example, semiconductor manufacturing equipment would be of little use in a country without an electronics industry;
- The customer is unfamiliar with the product’s performance characteristics but still wants the product.
- Delivery dates are vague, or deliveries are planned for out-of-the-way destinations;
- A freight forwarding firm is listed as the product’s final destination.
- The shipping route is abnormal for the product and destination; or
- When questioned, the buyer is evasive or unclear about whether the purchased product is for domestic use, export or re-export.
I. Guidance for Handling Regulated Items

Information in the public domain (ITAR) or publicly available (EAR) is not subject to export controls and should be considered preferable research inputs, instead of restricted technology, whenever possible.

The use of restricted technology is occasionally unavoidable, and this guidance is provided to assist UNH researchers remain compliant with export regulations.

**ITAR Controlled Items**

The Department of State, through its Directorate of Defense Trade Controls (DDTC), administers the International Traffic in Arms Regulations (ITAR)\(^33\). The ITAR governs the provision of defense services and the export of defense articles that are inherently military in character, or specially designed for military applications and enumerated on the United States Munitions List (USML)\(^34\).

Three terms are used to designate export controlled ITAR items: “defense articles,” “defense services,” and “technical data.”

*Defense Article* means any piece of equipment, or technical data (as defined below), that is listed on the USML. This term also includes technical data recorded or stored in any physical form, models, mockups or other items that reveal technical data directly relating to items listed on the USML.

*Defense Services* means
(1) The furnishing of assistance (including training) to foreign persons, whether in the United States or abroad in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing or use of defense articles;

(2) The furnishing to foreign persons of any technical data (as defined below), whether in the United States or abroad; or

(3) Military training of foreign units and forces, regular and irregular, including formal or informal instruction of foreign persons in the United States or abroad or by correspondence courses, technical, educational, or information publications and media of all kinds, training aid, orientation, training exercise, and military advice.

*Technical Data* means information required for the design, development, assembly, production, operation, repair, testing, maintenance, or modification of a defense article. This includes information in the form of blueprints, drawings, photographs, plans, instructions, documentation, and email or telephone exchanges where such information is discussed.

Technical data does not include general scientific, mathematical, or engineering principles commonly taught in universities, information in the public domain\(^35\), telemetry data\(^36\), general system descriptions,

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\(^33\) 22 CFR §§120 - 130
\(^34\) 22 CFR § 121
\(^35\) 22 CFR §120.11
\(^36\) 22 CFR §121 (Note 3 to Category XV(f))
or basic marketing information on function or purpose or general system descriptions of defense articles.

**Definition of Export under the ITAR**

The ITAR defines the term 'export' broadly. The term applies not only to exports of tangible items from the U.S. but also to the provision of services and transfers of intangibles, such as technical data, to foreign nationals either abroad or in the U.S.

**Identification, Receipt and Tracking of ITAR Controlled Items and Technical Data**

A Technology Control Plan (TCP) is required as a means for tracking and monitoring compliance when projects involve ITAR controlled items or technical data. The Director of Contracts & Export Controls is responsible for oversight and licensing, including technical assistance agreements (TAAs), for all projects in which defense articles are manufactured. **Subject to the requirements of a TAA, TCPs for ITAR controlled items MUST bar access by all foreign persons (unless a bona fide exception is available), as there is no country-by-country analysis as in the EAR regulatory framework.**

UNH makes every effort to maintain the Fundamental Research Exemption but in some cases does accept projects that involve actual receipt of or fabrication of defense articles. There are research groups who have ITAR-controlled activities and/or equipment at UNH. TAAs/TCPs are in place to protect such activities and equipment. In addition, Export Compliance Staff have requested to be notified by UNH Procurement Services of any purchases of items that are identified by the vendor as ITAR-controlled. If any are identified, Export Compliance Staff will contact the UNH purchaser, inform them of the requirements to secure the item, and help develop a TCP to allow for use of the item by authorized persons only.

**EAR Controlled Items**

The Department of Commerce, through its Bureau of Industry and Security (BIS), administers the Export Administration Regulations (EAR). The EAR governs the export or transfer of “dual use” items, that is, items that have both military and commercial/civilian application (e.g., acoustic systems, lasers, and magnetometers). In effect, unless subject to another agency’s jurisdiction (e.g., ITAR controlled) **any item** made in the U.S. and/or containing U.S. origin technology or software is subject to regulation under the EAR. Commodities and related technology subject to the EAR are detailed in the Commerce Control List (CCL) and licensing determinations for export under the EAR depend not only on the type of commodity and destination but also on the end-user and end-use.

**Definition of Export under the ITAR**

“Export” means an actual shipment or transmission of items subject to the EAR out of the United States. That said, certain actions that you might not regard as an export in other contexts do constitute an export subject to the EAR; for instance, the release of software or technology to a foreign national in the United States through such means as demonstration or oral briefing is deemed an export to the home country of that foreign national.

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Export Control Classification Number (ECCN)

A key in determining whether an export license is needed from the Department of Commerce is knowing whether the item you intend to export has a specific Export Control Classification Number (ECCN). The ECCN is an alpha-numeric code (e.g., 3A001) that describes the item and indicates licensing requirements. Items not assigned a specific ECCN fall under a catch-all category called “EAR99” and can generally be exported without a license, unless the export is to an embargoed country, or to a prohibited person or end-use.

Identification, Receipt and Tracking of EAR Controlled Items, Software and Technology

Without restriction on nationality, it is typically allowable to use equipment subject to EAR control in on-campus research provided that exposure to the technology is limited to that necessary for “simple operation” of the equipment. Note: “simple operation” is generally not an option for technology that transferred from the ITAR to the EAR as part of Export Control Reform.

The technology required for operation, installation, maintenance, repair, refurbishing and overhaul of EAR controlled equipment must be protected from export to countries that will vary depending on its export classification.

There is no allowable “simple operation” of EAR-controlled items or equipment with ECCNs 9x515 or nx6nn. As with ITAR-controlled items, the transfer of this technology for “simple operation” to non-US persons without a license would be a deemed export violation.

Determining whether a commodity controlled by the EAR requires particular safeguards against an unlicensed export entails a series of questions:

- It your item specifically described in the CCL?
- How is it designated, i.e., what is its ECCN?
- What exemptions available for this ECCN?
- Which countries (and nationals from those countries) are involved in your project?
- Is your ECCN controlled to these countries? (check the Country Chart)
- What is the proposed end-use?
- Who is the proposed end-user?

TCPs for EAR controlled items bar access by foreign persons based on specific combinations of ECCN, country, and exemption. The decision tree in Appendix V shows the steps to determining your obligations under the EAR.

For assistance evaluating whether items or activities are subject to the EAR, contact Export Compliance Staff.
J. Export Licensing

If a project or activity is export controlled and requires the involvement of a foreign national, or the need to ship an item out of the country, Export Compliance Staff will apply for an export license to allow the export. Collaborations with or shipping to entities listed on a restricted party list or in an embargoed country may also require a license.

Typically, the Director of Contracts & Export Controls is the authorized official who signs and submits license applications on behalf of UNH to the U.S. Departments of State, Commerce, and Treasury. A license application can take months for approval and activities associated with certain destinations may be subject to a policy of denial. Please be aware of the time frame necessary for the application process and build it in to your project schedule.

The decision tree in Appendix VI shows the steps for determining licensing obligations for research projects. Exemptions and exceptions within the regulations may allow certain activities to proceed without a license; however, their use must be well documented and approved by Export Compliance Staff.
K. Recordkeeping

1.0 Purpose

U.S. export regulations all stipulate record keeping requirements for regulated export activities, such as international shipments. Records retained in accordance with these regulations must be made available to the regulating authority upon request.

2.0 Responsibility for Recordkeeping

2.1 The custodian for records related to an export or an import transaction is the UNH employee who sends (exports) or receives (imports) international shipments on behalf of UNH or who arranges the import/export activity.

2.2 The custodian may be asked to produce any records that are required to be retained (listed below), and to make them available for inspection and copying by any authorized agent, official or employee of the U.S. Government.

2.3 Records that should be retained include, but are not limited to, notes, correspondence (including email), financial records, and shipping documentation. When the UNH Contracts & Export Controls group approves the use of license exceptions or exemptions, they will create and maintain records documenting the applicability of the exception/exemption. Use of an exception/exemption may, in some cases, generate additional reporting and recordkeeping requirements. A more complete list of records to be retained is included as SCHEDULE A.

2.4 The original records must be maintained in the form in which they were created or received, unless they meet all of the conditions relating to the reproduction of records, as described in the regulations39. The documents can be saved in paper form and/or electronic media so long as they can be retrieved, reproduced on paper, and are legible.

2.5 To facilitate this compliance requirement, custodians can delegate this recordkeeping requirement to UNH Contracts and Export Controls Staff by sending them a legible .pdf copy of all documents related to the transaction for retention.

3.0 Retention Period

Export records must be retained for five years from the date of export or from the date of expiration of the export authority, whichever occurs later40. Records related to a potential export violation or a voluntary disclosure may not be destroyed or disposed of without written authorization from a cognizant government agency, even if such records have been retained for a period of time exceeding the five-year requirement41.

39 15 CFR §762.5 of the EAR
40 22 CFR §122.5 for the ITAR and 15 CFR §762 for the EAR
41 22 CFR §122.5(a) for the ITAR and 15 CFR §762.6(b) for the EAR
**SCHEDULE A – EXPORT RECORDS CREATED AND MAINTAINED BY SPECIFIC CUSTODIANS**

<table>
<thead>
<tr>
<th>Type of Record</th>
<th>Responsible Custodian</th>
</tr>
</thead>
<tbody>
<tr>
<td>Memoranda; Notes; Correspondence (including email)</td>
<td>All Custodians</td>
</tr>
<tr>
<td>Financial records; Purchase Orders; International Shipment Forms; Bills of Lading; Air Waybills; Electronic Export Information (EEI); Shipper’s Letter of Instructions (SLI)</td>
<td>BSC Staff, Individuals involved in international shipments,</td>
</tr>
<tr>
<td>Contracts</td>
<td>Contracts &amp; Export Compliance Staff</td>
</tr>
<tr>
<td>Export licenses; application for licenses; any and all documents submitted in a license application; notification from BIS of an application being returned without action; notification by BIS of an application being denied; notification by BIS of the results of a commodity classification or encryption review conducted by BIS; Restricted Party Screening (RPS) results; emails related to either jurisdiction or classification determinations; memoranda regarding license determinations or exemptions.</td>
<td>Contracts &amp; Export Compliance Staff</td>
</tr>
<tr>
<td>Laptop TMP certifications</td>
<td>Individuals traveling with a UNH laptop and Contracts &amp; Export Compliance Staff</td>
</tr>
</tbody>
</table>
VII. Common Export Control Acronyms

AECA  Arms Export Control Act
BIS   Bureau of Industry and Security
BSC   Business Service Center
CBP   Customs and Border Protection
CCL   Commerce Control List
CEC   Contracts and Export Controls
CFR   Code of Federal Regulations
CITI  Collaborative Institutional Training Initiative
CJ    Commodity Jurisdiction
CUI   Controlled Unclassified Information
DDTC  Directorate of Defense Trade Controls
DEA   Drug Enforcement Agency
DOE   Department of Energy
EAA   Export Administration Act
EAR   Export Administration Regulations
ECCN  Export Control Classification Number
EH&S  Environmental Health and Safety
EMCP  Export Management and Compliance Program
EPA   Environmental Protection Agency
FACR  Foreign Assets Control Regulations
FAR   Federal Acquisition Regulation
FDA   Food and Drug Administration
FRE   Fundamental Research Exemption
FTR   Foreign Trade Regulations
FWS   Fish and Wildlife Service
ITAR  International Traffic in Arms Regulations
NLR   No License Required
NRC   Nuclear Regulatory Commission
NSDD  National Security Decision Directive
OFAC  Office of Foreign Assets Control
OISS  Office of International Students and Scholars
PI    Principal Investigator
PTO   Patent and Trademark Office
RPS   Restricted Party Screening
SPA   Sponsored Programs Administration
SVPR  Senior Vice Provost for Research
TAA   Technical Assistance Agreement
TCP   Technology Control Plan
TMP   Temporary Export (Tool of Trade)
USC   United States Code
UNH   University of New Hampshire
US    United States
USML  United States Munitions List

\[42\] Not all of these acronyms are used in this document.
Appendices

I. Sponsored Program Internal Approval Form (“Yellow Sheet”)
II. Comprehensive Assessment Guide
III. Technology Control Plan (TCP)
IV. Export Controls Compliance Awareness Training
V. EAR Decision Tree
VI. Decision Tree for Research Projects
Appendix I. Proposal Routing Form ("Yellow Sheet")

**UNIVERSITY OF NEW HAMPSHIRE**  
**PROPOSAL ROUTING FORM**

**Introduction**
This form must be completed before the proposal application can be submitted. It is also used by Sponsored Programs Administration (SPA) to record and report on proposal submissions. It is required that the form and the related documents be submitted to SPA, Service Building Room 111, at least two days before the funding agency's deadline. An electronic copy of this form is acceptable and can be e-mailed directly to the Grant and Contract Administrator (GCA).

**Project Identification**

<table>
<thead>
<tr>
<th>Principal Investigator</th>
<th>Department</th>
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<tr>
<th>Co-Principal Investigator</th>
<th>Department</th>
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**Project Title**

<table>
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<tr>
<th>Proposed Sponsor</th>
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**Prime Sponsor (if pass-through)**

<table>
<thead>
<tr>
<th>Center/Institute Submission:</th>
<th></th>
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</table>
*If yes: Center/Institute Name: |

**Application Type:**

<table>
<thead>
<tr>
<th>Research Purpose:</th>
<th>Basic Research: Undertaken primarily to acquire new knowledge without any particular application or use in mind.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Applied Research: Conducted to gain the knowledge or understanding to meet a specific, recognized need.</td>
</tr>
<tr>
<td></td>
<td>Development: Systematic use of the knowledge or understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including the design and development of prototypes and processes.</td>
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</tbody>
</table>

**Budget Information**

<table>
<thead>
<tr>
<th>Sponsor Costs</th>
<th>Project Period</th>
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</thead>
<tbody>
<tr>
<td>Direct:</td>
<td>Start Date:</td>
</tr>
<tr>
<td>Indirect:</td>
<td>End Date:</td>
</tr>
<tr>
<td>Total: $ 0.00</td>
<td></td>
</tr>
</tbody>
</table>

**Cost Sharing:**

*If yes Attach UNH Cost Sharing Form*

**Does this project involve: (check all that apply)**

- [ ] Human Subjects (IRB)
- [ ] Vertebrate Animals (IACUC)
- [ ] Radiative, Biological or other Hazardous Materials Including lasers, x-rays and MRIs
- [ ] Export Control
- [ ] If this project involves defense articles; international collaboration; foreign travel; transfer of information; or equipment to foreign sites or collaborations; foreign visitors, or publication/foreign national restrictions; it may be subject to export control regulations.
- [ ] SCUBA/Research Diving

<table>
<thead>
<tr>
<th>Additional space is required</th>
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</thead>
<tbody>
<tr>
<td>Renovations/Alterations of space is required</td>
</tr>
<tr>
<td>Protected Health Information will be used in this proposal</td>
</tr>
</tbody>
</table>

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Appendix II. Comprehensive Assessment Guide

Comprehensive Assessment Guide

Guideline, terms, contractual documents, and national security restrictions
- Foreign Person Participation or identification of participants by nationality
- Access to information or facilities
- Dissemination of the results of information, pre-pub approval, no attribution, no presentation at conferences
- Other SBIR and STTR award specific requirements

INPUT ISSUES

Sponsor Provided:
- Non-public domain technical data or information, such as:
  - For Official Use Only (FOUO), Controlled Unclassified Information (CUI), Sensitive But Unclassified (SBU), Law Enforcement Sensitive (LES)?
  - Proprietary Information (CDA, PIA, NDA, MTA)
- Hardware, software or technical data subject to other restrictions (e.g. user agreements)?
- Procurement of defense articles

Arms Export Control Act & Security Classification
Will security classification or restriction be imposed on the project, including but not limited to:
- DD Form 2345, Military Critical Technical Data Agreement
- NASA Awards: NASA Assurance for Funding Restrictions with China?
  https://science.nasa.gov/researchers/sara/faqs/pre-faq-roses/

CONDUCT ISSUES

Participants:
- Are any foreign persons anticipated to participate in this program?
- International collaboration
- Foreign Travel
- Sanctioned country or entity list involvement?

Research Instruments
- Does the conduct of the research involve access or operation of any EAR or ITAR research instruments, equipment or software?
- Access, use or operation or transmittal of defense article(s)?
- Deemed export concerns?

Application:

Commercial Applications
- Designed, developed for commercial use or involves commercial commodities?

Military Application
• Sponsored by or involves: NASA, DoD, DARPA, MDA, Energy, DHS, Intel, DoD flow-thru, defense contractors or associated research lab (such as the Office of Naval Research or Air Force Office of Scientific Research) including flow-thru awards?

• Indications of that research is not basic (6.1) or applied (6.2)?
  o Advanced Technological Development (6.3),
  o Demonstration & Validation (6.4),
  o Engineering & Manufacturing Development (6.5),
  o Management Support (6.6), or
  o Operational Systems Development (6.7)?

• Specially designed, developed, configured or adapted for a military application?
• Activities related to chem/bio weapons, missiles, encryption, HHS or USDA Select Agents, pathogens, or toxins?
• Access, use or operation or transmittal of defense article(s)?

OUTPUT ISSUES

Federal Government Specific Distribution Limitations

• Generation of any technical data or information identified as:
  o For Official Use Only (FOUO), Controlled Unclassified Information (CUI), Sensitive But Unclassified (SBU), Law Enforcement Sensitive (LES)?
  o Limited Distribution Information requiring distribution statements to be placed in unclassified scientific technical documents (e.g. Contract Data Requirements List (CDRL(s))) such as:
    ▪ Distribution B: Authorized to U.S. Government Agencies Only
    ▪ Distribution C: Authorized to U.S. Government Agencies and their Contractors
    ▪ Distribution D: Authorized to the DoD and U.S. DoD Contractors only
    ▪ Distribution E: Distribution authorized to DoD components only
    ▪ Distribution F: Further distribution only as directed
    ▪ Distribution X: Distribution authorized to U.S. Government agencies

Fundamental Research (EAR)
All information or software involved published or planned to be published or released and made generally accessible to the public:
• Periodicals, books, print, electronic, or any other general distribution media;
• Subscriptions available without restriction for purchase;
• Websites available to the public free of charge or at a cost not exceed the cost of reproduction;
• Public Libraries;
• Patents and open (published) patent applications;
• Release at an “open” conference, meeting, seminar, trade show in the U.S., accessible by the public for a fee where attendees may take notes and leave with notes.

Information Results (ITAR)
Do the information and software results meet all of the following criteria?
• Result from basic and applied research in science and engineering conducted at an accredited institution of higher education located in the U.S.;
• Is ordinarily published and shared broadly within the scientific community

Educational Instruction
Instruction in general science, math and engineering principles commonly taught at schools, colleges and universities, and conveying information through courses listed in course catalogues and in associated teaching laboratories of academic institutions

Other International Components
• Involve any international visiting scholar(s) (including researchers, post docs and visiting scientists)?
• Involve training of foreign persons in the “operation” of equipment?
• Have any other type of international component, including but not limited to:
  o Sponsorship by a:
    • foreign-owned company
    • foreign government
    • foreign research institutions
    • foreign military / Law enforcement
    • foreign military affiliated contractor
• MOU between UNH and a foreign institution
• Other type of international collaboration

OFAC
• Collaboration with foreign scientist(s), researcher(s) or institution(s) outside of the U.S.?
• Performance of research in a foreign country?
• Payment to any individual, entity or organization (i.e. subcontractors) in a foreign destination for performance or will any U.S. researchers be paid abroad?

International travel
• Travel to sanctioned or embargoed countries for purposes of teaching or performing research?
• Travel to a destination currently under a State Department Travel Warning?
• Travel out of the U.S. with tangible articles, items samples or technical data associated with a UNH project including UNH equipment?
• Transfer or hand-carry of research data or information out of the U.S. (including on a PDA/flash-drive, laptop, or log-in remotely to a UNH server)? If yes,
  o Is any of the data or information proprietary, or subject to export control?

Shipping
• Shipping of items, samples or technical data to foreign countries (e.g., sample shipments for analysis)?

Importation
• Importation of any items or materials

Final Export Control Compliance Determinations:
Restricted Research Under:
• EAR
• ITAR
- DEAR
- OFAC

**Required Protocols:**
- Technology Control Plan (Appendix IV)
- Export Awareness Training
- Other
# Appendix III. Technology Control Plan (TCP)

## The University of New Hampshire

### Technology Control Plan (TCP) and Certification

## Part I: Required Information

<table>
<thead>
<tr>
<th>Individual Requesting and Responsible for TCP</th>
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<tbody>
<tr>
<td>Department</td>
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<tr>
<td>E-mail Address</td>
<td></td>
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<tr>
<td>Request Date</td>
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</tbody>
</table>

| Description of Covered Items (Hardware, Material, Software, Information) |  |

<table>
<thead>
<tr>
<th>Jurisdiction, if known (EAR/ITAR/Other) &amp; Classification (ECCN or ITAR Category)</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Building(s):</td>
<td></td>
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<tr>
<td>Room(s):</td>
<td></td>
</tr>
</tbody>
</table>

| Location(s) Covered by TCP (add additional rows if needed) |  |

<table>
<thead>
<tr>
<th>Project Personnel</th>
<th></th>
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<tbody>
<tr>
<td>List Name(s) below:</td>
<td></td>
</tr>
<tr>
<td>List citizenship(s) / Permanent Res. Status:</td>
<td></td>
</tr>
<tr>
<td>Personnel who will have access to export controlled subject matter (add additional rows if needed)</td>
<td></td>
</tr>
<tr>
<td>(This box will grow with names)</td>
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</tbody>
</table>

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<thead>
<tr>
<th>Is sponsored research involved (Yes/No)?</th>
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<tbody>
<tr>
<td>If yes, specify sponsor &amp; grant/contract number</td>
<td></td>
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<tr>
<td>Projected start date and end date of project</td>
<td></td>
</tr>
<tr>
<td>Start Date:</td>
<td></td>
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<tr>
<td>End Date:</td>
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</tbody>
</table>

| Is a non-disclosure agreement involved (Yes/No)? |  |
| If yes, identify the parties and attach a copy |  |

<table>
<thead>
<tr>
<th>Attachments</th>
<th></th>
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<tbody>
<tr>
<td>1. TCP</td>
<td></td>
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<tr>
<td>2. Export Briefing and Certification Form(s) for each person subject to this TCP</td>
<td></td>
</tr>
<tr>
<td>3. NDA (if applicable)</td>
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<table>
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<tr>
<th>Approved</th>
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<tbody>
<tr>
<td>Victor G. Sosa, Director Contracts &amp; Export Controls</td>
<td></td>
</tr>
<tr>
<td>Date</td>
<td></td>
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</tbody>
</table>
Part II: Briefing and Certification on the Handling of Export controlled Information

Export controls regulate the transfer of technical information, commodities, and software ("technology") thought to be strategically important to the U.S. because of their relevance to national security, economic and/or foreign policy interests. Export controls also restrict the release of certain information to foreign nationals here in the U.S. (referred to as a "Deemed Export"). This project involves or has the potential to involve the receipt and/or use of export controlled technology. As a result, particular consideration must be given to the manner in which compliance with the International Traffic in Arms Regulations (ITAR), the Export Administration Regulations (EAR), or other U.S. Export-Control regulations will be assured.

It is unlawful under export regulations to send or take export controlled technology out of the U.S.; or to disclose such information, technology orally or visually (including by email, fax, phone, etc.), or to transfer same to a foreign person inside or outside the U.S. without authorization from the cognizant U.S. government agency. A foreign person is a person who is not a U.S. citizen or lawful permanent resident alien of the U.S. Export control regulations make no exceptions for foreign graduate students or visiting scientists; an individual lawfully in the U.S. on a visa for work or study is a foreign person.

The purpose of this Technology Control Plan is to describe the controls necessary to ensure that controlled technology are not conveyed to foreign national visitors, employees, or students beyond that which is approved for export by a formal license from the appropriate U.S. federal agency, or which is authorized to an individual possessing a "need to know."

This Technology Control Plan is required because one or more of the following conditions exist:

1. This project may involve access to export controlled technology.

2. The project may or may not involve export controlled technology but a publication restriction or foreign national restriction in the sponsoring agreement precludes the Principal Investigator and project participants from releasing any information or publishing results of the research without the Sponsor's prior approval unless the information or research results are already in the public domain.

Researchers may be held personally liable for civil or criminal violations of the U.S. Export-Control Regulations. As a result, you should be clear on the requirements and exercise reasonable care in using and sharing export controlled technology with others. This Technology Control Plan is to help you assess and understand your obligations to the Export controlled aspects of this project.

Technology utilized and/or generated in the performance of this project must be secured from use and observation by foreign persons; the security measures you design and implement should be appropriate to the type, nature, and level of export controlled information, technology, software, and/or items involved in the project. Examples of appropriate security measures include (but are not limited to):

- **Project Personnel** - Authorized personnel must be clearly identified.
- **Laboratory "work-in-progress"** - Plans to protect project data and materials from observation by unauthorized individuals. This would include operating in secured laboratory spaces or during secure time blocks when observation by unauthorized persons is prevented.
- **Marking of export controlled Information** - Export controlled information must be clearly identified and marked as export controlled with a legend appropriate to the applicable control.
- **Work Products** - Paper data, lab notebooks, reports, and research materials are stored in locked cabinets, preferably located in rooms with key-controlled access.
- **Equipment, components, or other Items** - Equipment, parts, components, or other tangible items and associated operating manuals, diagrams, etc. containing identified export controlled technology are to be physically secured from unauthorized access.
- **Conversations** - Discussions about the project or work products are limited to the identified contributing investigators and are held only in areas where unauthorized personnel are not present. Discussions with third party sub-contractors are only to be conducted under signed agreements that fully respect the foreign person limitations for such disclosures.
- **Phones, PDA's, Tablets, Computers, MP3 Players, and Other Personal Electronics** - No export controlled data or information should be loaded to, sent to, or stored on any personal electronic device. See the provision on Information Security below.

Version 1: Rev. 5/04/2015
<table>
<thead>
<tr>
<th>Departments:</th>
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<tbody>
<tr>
<td>Research Project Title:</td>
<td>Banner No.:</td>
</tr>
<tr>
<td>Sponsor:</td>
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</table>

**Certification:** I hereby certify that I have read and understand this Briefing, and that I understand and agree to follow the procedures outlined in the TCP. I understand that I could be held personally liable if I unlawfully disclose, regardless of form or format, Export controlled information, technology, software, or items to unauthorized persons.

| Signature: | Date: |

[PRINT AND EXECUTE THIS CERTIFICATION FOR EACH PERSON WHO WILL HAVE ACCESS TO EXPORT CONTROLLED SUBJECT MATTER]
Part III: Technology Control Plan (TCP)

1 Commitment

The University of New Hampshire is committed to export controls compliance. Victor G. Sosa, Director of Contracts and Export Controls ("UNH CEC"), is responsible for the implementation of UNH’s export control compliance program and serves as an Empowered Official who may approve this Technology Control Plan. The Empowered Official is the main contact for export control issues.

The individual responsible for and committed to ensuring compliance with this TCP (ordinarily the PI) is:

2 Background and Description of the Use of Controlled Items and Information

Please provide a brief overview of the project. Describe what sensitive technology will be provided and how they will be delivered:

3 Physical Security

Please describe the physical location of the project work and the security controls that will be used to prevent unauthorized access to secured areas and to protect project materials and computers. As a minimum, these controls should cover the bullet point items in Part II above and the following:

- Plans to protect materials (physical or digital) and to ensure that project materials not leave the secured areas (including via the network).

- Plans to ensure that work for this project is done within secured areas.

- Plans for clearly marking all physical materials (e.g., hardcopy, removable media, etc.) as export controlled, propriety, and/or subject to an NDA as appropriate. The plan should provide that materials be physically secured from access when not in use.

- Procedures to ensure that only project members are present in the secured areas when work on this project is being performed.

- Plans to prevent foreign persons viewing or having access to any project data (physical or digital) or secured area (including maintenance, cleaning, and others).

Version 1: Rev. 5/04/2015
4 Information Security

The University System of New Hampshire and University of New Hampshire, both, have policies which guide the use of IT resources at UNH at http://www.unh.edu/pwm/. Export controlled data are categorized under the USNH Data Classification Policy as Restricted data.

Please explain, in sufficient detail, what information security controls will be used to protect sensitive project data. At a minimum, your plan must comply with the bullet point items in Part II above and the following guidelines:

- Any requirements explicitly outlined in the contract/NDA, such as technology controls, data classification, encryption, network access (or lack thereof), non-disclosure, secure destruction, etc., must be adhered to at all times.
- Project data must not be sent unencrypted over any networks. All data stored on computers and removable media must be encrypted at rest, utilizing a whole disk encryption product wherever feasible.
- Project computers must be dedicated exclusively for work that is covered by a Technology Control Plan, and not be general-purpose machines.
- Project computers should not be internet accessible except when explicitly allowed by the data owner, and only for the minimum duration necessary to complete the activities requiring internet access.
- Project computers should be non-networked unless network connectivity is required for project work. If network connectivity is required, project computers should be configured to deny all non-essential inbound and outbound traffic. Network connectivity must be restricted to the maximum extent feasible. MAC addresses for all Ethernet and wireless interfaces must be provided to the Information Security Office.
- When project computers reach their usable life, physical media (e.g. hard drives, USB drives, etc.) must be forensically erased or destroyed using University Safe Electronic Equipment Disposal (SEED) services (http://it.unh.edu/index.cfm?id=s3A69C62-CAEB-B081-8F3C97C895E32791).

5 International Travel Security

Individuals shall not take or work on export controlled projects/information when traveling abroad (including to Canada) without prior approval of the UNH CEC and/or licenses when required, i.e. ITAR-controlled articles or technical data (documents, drawings, software) cannot be taken out of the country without a license from the U.S. Department of State. In most instances, you can take EAR-controlled laptops, tablets, and smartphones abroad using EAR license exceptions—but you cannot then transfer it to someone not otherwise authorized to receive it. Keep in mind that it may take several weeks to obtain a necessary license, and use of exceptions may require formal documentation.

Customs officials, including those in the U.S., are authorized to search and retain electronic devices and the data contained on the devices. Therefore, do not travel internationally with information obtained via an NDA or confidentiality agreement.

Version 1: Rev. 02/03/2017
or with ANY data you want to remain private. Travelling with a “clean” laptop with routine, mass-market software can serve to ease the search process and minimize risk.

Please describe any International travel that may be required for this project. Provide specific information for each trip concerning:

- The destination;
- The purpose for the international travel (e.g., conference, presentation, research collaboration); and
- Any equipment and/or data you plan to take with you.

If it is necessary to the purpose of an international trip to bring controlled equipment or sensitive project data (including under an EAR exemption), or to access controlled information/data remotely from abroad, please explain, in sufficient detail, what controls will be used to protect such data and to maintain effective control of the equipment.

6 Personnel Screening

All personnel with access to the controlled technology and their nationality must be listed in Part I: Required Information. All persons that may have access to export controlled technology must be screened against US government restricted persons/entities lists. An Empowered Official will complete this screening.

7 Training and Awareness

All personnel with access to Export controlled information, technology, software, or items on this project have read and understand the requirements of this plan. Additionally, all personnel with access to digital data/information stored on their university computer have read and agree to follow the Information Security procedures described above.

8 Compliance Assessment

As a critical component to the University’s ongoing compliance monitoring, self-evaluation is an internal assessment process whereby procedures are reviewed and any findings reported to the Empowered Official at victor.sosa@unh.edu (603-862-2001). The Empowered Official and/or USNH’s Office of Internal Audit may also conduct periodic evaluations and/or training to monitor compliance with the TCP. Any changes to the approved plan or personnel having access to controlled information covered under this TCP will be cleared in advance by the Empowered Official.

9 Project Termination

Security measures will be required for Export Controlled information and items after the project termination. Please describe the security measures to remain in effect for Export Controlled Information and items following termination of the project as well as the document retention and disposition plan to be followed:

Version 1: Rev. 02/03/2017
10 Changes to Personnel

Prior to adding new Project Personnel, the responsible individual identified above, under Item 1, must have them review the TCP and sign the certification and provide the signed copy to the Empowered Official. The responsible individual must also notify an Empowered Official to ensure that screening is performed. In the event that someone ceases to work on the project prior to project termination, please take appropriate measures such as collecting any keys to the work room and/or storage area, change electronic access codes, and remove access to project computers and other electronic storage devices.
Appendix IV. Export Controls Compliance Awareness Training

UNH Personnel can log into CITI Program at https://about.citiprogram.org

To access the training modules as a new user, select “Register” on the upper right portion of the home page menu.

For Step 1, use the “Select Your Organization Affiliation” box to search for and select the "University of New Hampshire" from the list of organizations.
1. Agree to the Terms of Service;

2. Affirm that you are an affiliate of the University of New Hampshire; and

3. Click “Continue to Create Your CITI Program Username/Password”

Create a profile, as prompted, bearing in mind that for Step 2, you can use any email address to register; because the account belongs to you, the learner. Using a non-UNH email account will allow you to keep the same account and transfer credit if you affiliate with a new organization.

While not required, a secondary email address is encouraged as it will assist in the recovery of your account if you forget your username or password and no longer have access to your primary email address.

For Step 3, you will choose a username and password for your account. On screen instructions provide the expected parameters of each field. Passwords are case sensitive.
At this point you will also select and answer a security question. This question will be used to assist in the recovery of your account if you have forgotten your username or password. Please select a question that is applicable to you and which you can comfortably answer for the tech support team.

**Step 4** asks for your Country of Residence. Essentially, the country where you are currently living.

**Step 5** allows professionals seeking CEUs for CITI Program courses to make their selection for Continuing Education credits. This step is where you can also let CITI Program know your interest in participating in research surveys at a later date.

**Step 6** represents specific information requested by UNH.
Step 7 enrolls you in specific CITI Program courses. Select "Export Compliance" from the course selections on the main page. You can always adjust your courses to enroll in other modules currently offered by UNH. After selecting your courses, click on Complete Registration.

Once your registration with the University of New Hampshire is complete, finalize your registration.

Once your screen says "Your registration has been completed successfully"; click on "Export Compliance"
Your registration has been completed successfully.

<table>
<thead>
<tr>
<th>University of New Hampshire Courses</th>
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<tbody>
<tr>
<td>Course</td>
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<tr>
<td></td>
</tr>
<tr>
<td>Export Compliance</td>
</tr>
</tbody>
</table>

My Learner Tools for University of New Hampshire
- Add a Course
- Remove a Course
- View Previously Completed Coursework
- Update Institution Profile
- Remove Affiliation

- Affiliate With Another Institution
- Affiliate as an Independent Learner
You must click on “Complete The Integrity Assurance Statement” before beginning the course and agree to the Assurance Statement before you can advance to the Export Compliance Module.
Finally, Under "Required Modules" select and complete the "Introduction to Export Compliance" module. Once the introduction module is successfully completed other supplemental modules may be complete on a voluntary basis.
Appendix V. EAR Decision Tree

Supplement No. 1 to Part 732 - Export Control Decision Tree


Supplement 1 to Part 732—Decision Tree

Export Control

Decision Tree

(Supp. No. 1 to Part 712)

ECCN

Is your item classified under an ECCN on the CCL?
(See 772.3(a)(1) & (2))

Do General Prohibitions 4–10 apply?
(See 770.30(a)(1–10))

Is there an "X" in the box?
(Using the Commerce Country Chart and the CCL)

Is a License Exception Available?
(See Part 744, including 744.2 exceptions that apply to E1000 exceptions)

Submit an application for License
(See Part 744)

“No License Required” (NLR)
(See 772.7(a)(14) & 772.7(a)(20))

Use License Exception
(See 744.1)

EARS

No

Yes

Exit the EAR

No

Yes

Do General Prohibitions 4–10 apply?
(See 770.30(a)(1–10))

15 FR 3687, Feb. 6, 2004