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Responsible University Office:
Office of Sponsored Programs and Research Development
Information Technology
Business Services & Accounts Payable
International Education

Responsible University Administrator:
Dr. Charlie Bicak, Senior Vice Chancellor for Academic and Student Affairs

Policy Contact:
Dr. Richard MocarSKI

Standard Campus Policy Template

POLICY CONTENTS

Scope
Policy Statement
Reason for Policy
Procedures
Definitions
Additional Contacts
Forms
Related Information
History

Scope

This policy applies to all personnel, including faculty, staff, student employees, students, affiliates, volunteers, and all other persons retained by or working at the university whose activities involve, but are not limited to:

- 1) Activities or research in controlled areas (e.g., munitions, encryption technology, nuclear technology, chemical/biological weapons, military technologies);
- 2) Activities involving the shipping or taking of equipment, technology, or software overseas;
- 3) Activities involving teaching and research collaborations with foreign colleagues or the participation or training of foreign nationals here or abroad;
- 4) Activities involving travel or work outside the U.S.;
- 5) Conducting tours of foreign nationals through research areas;
- 6) Conducting research sponsored by any entity restricting publication or participation by foreign nationals; and
- 7) Activities involving the receipt and/or use of export controlled information or technologies from other parties.

Failure to comply with the export control laws may result in severe penalties to the institution, as well as criminal sanctions to individual faculty, staff and students. As a result, personnel working in the following areas should become familiar with this policy and the procedures described below: engineering, physical and computer sciences

(especially personnel involved in defense-related research); the biological sciences and medicine, including personnel working with select agents and infectious materials; or personnel conducting research or academic collaborations with colleagues in countries that have been designated by the U.S. Department of State as supporting terrorism.

Policy Statement

Compliance with all U.S. laws and regulations is required. As such, all personnel are required to comply with the U.S. laws that regulate the transfer of items, information, technology, software, and funds to destinations and persons outside of the U.S., as well as in some cases, to non-U.S. citizens at the university.

These current federal regulations are collectively referred to as the export control laws and have been in existence since the 1940's to regulate the transfer or release from the U.S. of information, commodities, technology, or software that has been deemed strategically important to the U.S. for reasons of national security, foreign policy, or the protection of the economy and commerce. It is important to note that many of the research, teaching, or service activities conducted by university faculty and staff are shielded from these complex regulations by a long-standing fundamental research exclusion defined further in definitions below.

International Financial Transactions

Certain financial transactions with restricted individuals or entities from sanctioned or embargoed countries may be prohibited (e.g., fellowship payments made to a researcher in another country).

Before agreeing to provide funding to any foreign national, university personnel should check with the Business Services/Accounts Payable office for assistance in identifying potential restrictions on the transaction.

In general, problematic destinations are those countries currently under U.S. embargo, sanction, or other trade restriction. Specific examples include Iran, Cuba, Sudan, Syria, North Korea, China, and Russia. U.S. sanction programs may change over time so travelers should check the Treasury Department's list of sanctioned countries (<https://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>) for the most current information.

Research Subject to Export Control

For research to be subject to export control regulation, it needs to include a deemed export and not be exempted by the fundamental research, educational instruction, or public domain exclusion.

A deemed export is any item sent from the United States to a foreign destination. This includes, but is not limited to, software, technology, building materials, chemicals, biological materials, blueprints, designs, and information. Furthermore, the Export Administration Regulations include tours of laboratories to foreign nationals, foreign

students, staff, or faculty conducting subject research at a U.S. institution, hosting of foreign scientists, emails, oral exchanges, and visual inspections as deemed exports.

Research with restrictions on publication and a deemed export are subject to export control regulations. Each researcher is responsible for ensuring compliance with export control regulations and therefore should familiarize themselves with these guidelines and contact the appropriate party at UNK.

International Travel –

Export control regulations apply to international travel in relation to items that individuals take with them on a trip to sanctioned or embargoed countries and the conduct of business with, or providing services to, restricted individuals, countries or entities. For the most current information regarding travel, refer to '[Traveling with Electronic Devices](#)' which individuals are expected to follow.

In general, travel to most countries is not a problem with the exception of those that are highly sanctioned and embargoed. The following, currently most comprehensively-sanctioned countries will require advanced planning and compliance with UNK's Export Control Policy guidelines: Cuba, Iran, North Korea, Sudan, and Syria. For specific information on any of these countries or to check current OFAC sanctions, please consult this webpage: <https://www.treasury.gov/resource-center/sanctions/Pages/default.aspx>.

When traveling internationally, working with individuals from other countries, or providing information to individuals from other countries (either in the U.S. or while travelling internationally) it is important to ensure that you do not accidentally export restricted information or provide any type of assistance or benefit to a sanctioned or blocked entity.

When traveling abroad, it is always a good idea to contact the appropriate U.S. Embassy or Consulate before you depart. To register your travel plans with an embassy and receive helpful safety and emergency information related to your destination, visit the Department of State's Smart Traveler Enrollment Program. For more information about U.S. Embassies and Consular Offices visit USEmbassy.gov.

UNK seeks to balance the benefits of international travel on educational, research, and outreach activities with the potential risks such travel might pose to those involved. Therefore, the university relies on travel guidance issued by U.S Department of State and the Centers for Disease Control and Prevention. Please refer to University of Nebraska Executive Memorandum No. 25 for specific university policy and procedures related to traveling to countries under a travel alert or warning.

Recordkeeping and Retention Requirements

The university is required to retain a complete record of all export control documentation including but not limited to the university's analysis of license requirements, any issued licenses, shipping documents, and any correspondence related to each export transaction. Original records must be retained for five years from the date of export, re-export, or transfer.

Reason for Policy

The purpose of this policy is to ensure compliance with federal regulation, outline the key features of export controls, examine the relationship of these regulations to activities conducted at the university, and explain how the university will assist university personnel to ensure compliance with export controls.

Applicable Federal Regulations

U.S. Department of State - International Traffic in Arms Regulations (ITAR) 22 CFR 120-130

The U.S. Department of State, Directorate of Defense Trade Controls (DDTC), is responsible for items and information inherently military in design, purpose, or use. Referred to as "defense articles," such items are found on the U.S. Munitions List (USML), 22 CFR 121. Spacecraft and satellites, even if not for military use, are on the USML, along with their associated systems and related equipment. Information related to defense articles is referred to as "technical data."

U.S. Department of Commerce - Export Administration Regulations (EAR) 15 CFR 700-799

The U.S. Department of Commerce, Bureau of Industry and Security (BIS), has export jurisdiction over everything in the United States, although BIS does not require a license for every export. BIS controls goods and information having both civilian and military uses by including them on the Export Administration Regulations (EAR) Commerce Control List (CCL), 15 CFR 774, also known as the "Dual Use List." BIS uses the term "technology" when referring to information about the goods on the CCL.

U.S. Department of the Treasury - Office of Foreign Assets Control (OFAC) 31 CFR 500-599

The U.S. Department of the Treasury oversees U.S. economic sanctions and embargoes through its Office of Foreign Assets Control (OFAC). Empowered by the Trading with the Enemy Act and the International Emergency Economic Powers Act, OFAC enforces trade, anti-terrorism, narcotics, human rights and other national security and foreign policy based sanctions prohibiting the provision of anything of value, either tangible or intangible, to sanctioned countries, organizations or individuals. The pertinent regulations provide OFAC with broad authority to block or interdict vaguely defined "prohibited transactions" involving restricted destinations or parties.

Procedures

International Financial Transactions

Accounts Payable pre-approves all non-U.S. citizens utilizing the Systematic Alien Verification for Entitlements (SAVE) program prior to making any payment to these individuals.

Research Subject to Export Control

The Office of Sponsored Programs and Research Development staff have the sole authority to complete and submit applications for export control licenses for university personnel. The process of obtaining a license is long and difficult, and researchers should be advised that it can take up to four months to obtain a license and a license is needed for each project and each foreign national involved. Researchers must plan accordingly to account for this process.

All research projects subject to export control regulations must be submitted to the Office of Sponsored Programs and Research Development through researchportal.unk.edu, regardless of whether or not the project has external funding. When entering the project into the system, the researcher will utilize their UNK EASI credentials and the OSP module. To successfully submit information, the researcher must complete all ten forms, including the Export Control Information (FCI [see attached for content]) and route the form for signatures. Once the form is successfully routed, OSP staff will review the materials and contact the researcher to begin the process of obtaining a license for the appropriate regulation. This process will commence with a request for information by OSP staff to the researcher expanding upon the noted export control issue(s).

Recordkeeping and Retention Requirements

The Sponsored Programs & Research Development office is responsible for the retention of export records. It is the responsibility of university personnel to forward all relevant export documentation to the Sponsored Programs & Research Development office for archiving.

Willful non-compliance. UNK staff are obligated to report those individuals who are willfully in non-compliance with the export control regulations.

Definitions

Term	Definition
Deemed Export	Release or transmission of information or technology subject to export control to any foreign national in the U.S., including graduate students and training fellows. Such a release of information is considered an export to the foreign national's home country.
Educational Information	Information that is normally released by instruction in catalog courses and associated teaching laboratories of academic institutions is considered "Educational Information" and is <u>not</u> subject to export controls.
Export	Any item (i.e., commodity, software, technology, equipment, or information) sent from the U.S. to a foreign destination. Examples of exports include the actual shipment of goods as well as the transfer of written documents or information via email, phone, fax, internet, and verbal conversations.
Export License (license)	A written authorization provided by the appropriate governing regulatory authority detailing the specific terms and conditions under which export or re-export of export controlled items is allowed.

Export License Exception (license exception)	An authorization that allows one to export or re-export, under very specific conditions, items that would normally require a license. Export license exceptions are detailed in Export Administration Regulations (EAR) § 740 (http://www.access.gpo.gov/bis/ear/pdf/740.pdf).
Foreign National	Anyone who is not a U.S. citizen or who is not a lawful permanent resident of the U.S., or who does not have refugee or asylum status in the U.S. Any foreign corporation, business association, partnership, trust, society, or any other foreign entity or group as well as international organizations and foreign governments are considered foreign national(s).
Fundamental Research	As defined by National Security Decision Directive 189 (NSDD 189; http://fas.org/irp/offdocs/nsdd/nsdd-189.htm): any “ <i>basic and applied research in science and engineering, the results of which are ordinarily published and shared broadly within the scientific community...</i> ” is <u>not</u> subject to export control under the fundamental research exclusion. More specifically, the two basic criteria for this exemption are: <ol style="list-style-type: none"> 1. Research findings are freely publishable, AND 2. There are no restrictions on the dissemination and access to results.
Re-Export	Occurs whenever any item (i.e., commodity, software, technology, equipment or information) is sent from one foreign country to another foreign country.
U.S. Person	A U.S. person is any U.S. citizen, permanent U.S. resident alien, or protected individual, wherever that person is located. U.S. incorporated or organized firms and their foreign branches are also considered U.S. person(s).

Additional Contacts

Subject	Contact	Phone	Email
Travel	Deb Schroeder - Assistant Vice Chancellor, IT	308-865-8950	schroederd@unk.edu
	Michael Stopford – Assistant Vice Chancellor for International Affairs	308-865-8246	stopfordmj@unk.edu
Accounts Payable	Carrie Stithem – Accounts Payable Manager	308-865-8865	stithemcl@unk.edu
Research	Richard MocarSKI - Director, Office of Sponsored Programs & Research Development	308-865-1582	mocarSKIRA@unk.edu

Forms

Form for Research: researchportal.unk.edu (below is the content of the Export Control Information Sheet).

History

First draft: April 2016

Second draft: May 2016

Third draft: June 2016

Office of Sponsored Programs Research Information Form: Page 9. Export Control Information

All institutions of higher education and their faculty, staff, and students must comply with export controls, which are designed to ensure that sensitive information, technology, software, biological and chemical agents, equipment, and know-how are not employed for purposes other than their intended use. In case of violations, criminal sanctions - including substantial fines and even prison terms - can be applied.

Although most activities pursued by UNK researchers are not subject to export control restrictions or licensing requirements, each member of the university community must be familiar with them to ensure that appropriate guidance is sought and actions taken should they apply.

Please contact the Office of Sponsored Programs and Research Development at 308-865-8496 if you would like to discuss problems, concerns, and questions.

Does the solicitation or contract contain any clause that:

- * 1. Prohibits or restricts hiring, information access, or participation of foreign nationals?

- * 2. Addresses security concerns or involves space or military research?

- * 3. Delays publication for more than 60 days?

- * 4. Addresses travel outside of the United States?

- * 5. Requires shipment of materials or data or providing payment to a foreign national or entity?