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Responsible University Office:
Office of Equity & Compliance
Office of Sponsored Programs & Research

Responsible University Administrator:
Lee Ann Purdy, Office of Equity & Compliance

Policy Contact:
Lee Ann Purdy
Mary Chinnock-Petroski

Export Control Policy

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Scope

This policy applies to all members of the campus community, including but not limited to employees, tenure- and non-tenure-track faculty, lecturers, students, postdoctoral personnel, independent researchers, visiting scholars, visiting scientists, contractors, subcontractors and volunteers, student employees, students, affiliates, and all other persons retained by or working at the university.

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.

UNK has developed the following policy to ensure that all faculty, staff, students, and affiliates comply with Export Administration Regulations (EAR), International Traffic in Arms Regulations (ITAR), Office of Foreign Assets Control (OFAC) regulations and all other applicable export control or sanction related regulations. This policy and any amendments or additions apply to all university activities that may result in an export control of a sanctioned transaction with a person, entity, or country requiring an export license or other governmental approval. No transfer of technology, information or items may be made without complying with these laws and UNK policy.

Reason for Policy

The purpose of this policy is to ensure compliance with federal regulations, 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. Federal penalties for violations can **apply to both individual AND institutions** and include loss of “exporting” privileges; loss of federal funding or industry contract (for the university and for the individual); and negative public relations and media exposure. Possible penalties may be criminal and civil which may include; but not limited to, steep financial fines, imprisonment, federal debarment, and forfeiture of articles/property. Additional penalties may apply if violating certain specific sanction laws. UNK Export Control staff are legally obligated to report to federal authorities those individuals who are willfully in non-compliance with export control regulations.

Procedures

Exports and deemed exports –

Exports and deemed exports are governed by complex legal regimes, and sometimes require special permission (in the form of an export license or other authorization) from an agency of the federal government. Generally, exports are controlled by either the State Department (for military and space items) or the Commerce Department (for dual-use items). Some countries are subject to comprehensive embargos; exports to these destinations, regardless of the item or information being exported, require permission from the Treasury Department. Not all items are controlled for all destinations, but some items may not be sent to specified individuals, or used for specified end-uses.

The Empowered Official and Export Compliance Officer share responsibility for determining whether a particular export requires a license and, if so, applying for that license. Faculty members, staff, and students cannot apply for export licenses on their own. In order to facilitate these determinations, exporter should be able to provide answers to the following questions:

1. **What is the item or information to be exported?** This includes a detailed technical description of the item, its specifications or operating parameters, and any contractual non-disclosure or end-use restrictions that apply to the item.
2. **Where will the item be exported?** Certain items cannot be shipped to certain countries, or disclosed to nationals of certain countries, regardless of sensitivity or intended use.
3. **Who will receive the item or information?** Certain individuals and organizations are prohibited from receiving exports from U.S. persons. The Export Compliance Officer will need to screen recipients against lists of restricted parties maintained by the federal government.
4. **What is the intended end-use?** The federal government prohibits exports of items and information that will be used to create weapons of mass destruction or conduct criminal activities. Because some items used for legitimate research purposes may also be used for unlawful activities, export licenses require detailed descriptions of how items will be used once they reach their destination.

If the Export Compliance Officer determines that a license is necessary based on the responses to these questions, he or she will apply for a license on behalf of the researcher. Depending on the item to be exported, the government may take up to six months (and in some cases even longer) to process a license application, and there is no guarantee that a license will be issued. **No exports may take place until the required license is issued.**

Exports of ITAR-controlled items –

Items subject to the International Traffic in Arms Regulations include all items and information falling into an enumerated Category of the United States Munitions List and any other items determined by the Empowered Official or Export Compliance Officer to constitute a “defense article” (as defined at [22 C.F.R. 120.6](#)) or “technical data” (as defined at [22 C.F.R. 120.10](#)).

If the Empowered Official determines that an item is subject to the ITAR, the Empowered Official will, at his or her discretion, apply for an export license on behalf of the university. Per 22 C.F.R. 120.25(a)(2), **only the Empowered Official is authorized to apply for ITAR export licenses on behalf of the university; no other party has such authority. All exports of ITAR-controlled items require a license or other authorization. No exports of ITAR-controlled items may take place before an appropriate license or other authorization has been issued by the Directorate of Defense Trade Controls.**

The following is a non-exhaustive list of activities that constitute exports of ITAR-controlled items:

- Shipping or carrying a defense article to a destination outside of the United States;
- Allowing a foreign person to have physical access to or visually inspect a defense article;
- Releasing controlled technical data to a foreign person, wherever located; or
- Any other activity that constitutes an export under [22 C.F.R. 120.17](#).

Exports of EAR-controlled items -

Items and information subject to the Export Administration Regulations include all items falling into an enumerated Export Control Classification Number on the Commerce Control List and any other items determined by the Export Compliance Officer to constitute “items subject to the EAR” under [15 C.F.R. 734.3](#).

If the Export Compliance Officer determines that an item is subject to the EAR, he or she will, at his or her discretion, apply for any required licenses or other authorizations on behalf of the university. Not all EAR-controlled items require a license for all export destinations; however, **only the Export Compliance Officer is authorized to determine which destinations require licenses for which items. No exports of EAR-controlled items may take place before authorization by the Export Compliance Officer.**

Research Subject to Export Control –

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 research 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 (ECI [see attached for content]) and route the form for signatures. Once the form is successfully routed, OSP will review the materials and if a license is needed will contact the researcher to begin the process of obtaining the appropriate license.

Training –

In order to support ongoing compliance requirements, the Export Compliance Officer will offer training thru CITI training or in person, on a mandatory or voluntary basis for personnel engaging in exports or export-controlled activities. Training requirements will be determined on a per-activity basis, based on the nature of the activity, the person’s role in the activity, and the sensitivity of any export-controlled items involved in the activity.

Restricted parties -

Researchers who wish to conduct business, including research collaborations, with a person or entity in a foreign country should consult with the Export compliance Officer prior to entering any agreements.

Federal law may restrict UNK personnel from engaging with certain individuals and organizations in the course of university activities. These restricted parties are identified on lists published by various federal agencies. Restrictions imposed on businesses and other organizations also apply to their employees. This means that there may be additional restrictions on hosting visiting faculty or students from restricted universities, even if the faculty or student is not themselves a restricted party.

Embargoes –

Other transactions with certain foreign persons, including nationals and entities of countries subject to United States trade embargoes, require a license or other authorization issued by the Office of Foreign Assets Control. Transactions requiring a license include but are not limited to:

1. Hiring or sponsoring an employment visa on behalf of a national of an embargoed country;
2. Hosting a foreign scholar who is a national of an embargoed country; or
3. Accepting money or other support from an individual or entity in an embargoed country.

If the Export Compliance Officer determines that a transaction requires a license or other authorization under the FACR, he or she may apply for the required licenses and authorizations on behalf of the university. **The Export Compliance Officer will work with the affected researcher or unit to determine whether a transaction is subject to federal sanctions. If the transaction requires a license, only the Export Compliance Officer is authorized to apply for licenses and other authorizations. No transactions may take place before the required license or authorization has been obtained.**

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.

UNK personnel should be careful not to travel outside the United States with controlled items or computers or other devices that contain controlled information. Personnel who wish to travel internationally for the purposes of conducting or presenting research should consult with the Export Compliance Officer to determine whether any restrictions apply.

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.

Violations and enforcement –

Because violations of export controls, including inadvertent failures to comply, may result in severe criminal and civil penalties both for individual faculty, staff, and students, as well as for the university as an institution, export compliance is the shared responsibility of all members of the university community. While UNK is committed to openness in research and in the classroom, it may from time to time be necessary to restrict certain individuals' ability to conduct, access the results of, or otherwise participate in certain research projects and other activities.

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

Definitions

Controlled Items include defense articles, dual-use items, and any other technologies identified on either the United States Munitions List or commerce Control List as subject to export controls. Note that “items” in this context may refer to information or software source code in addition to tangible items like lab equipment, chemical samples, or biological specimens.

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.

Defense articles any items or information that serve primarily military or intelligence applications, with few or no civilian applications.

Dual-use items include tangible items, software, and other technologies that have both civilian and military applications.

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 not subject to export controls.

Export An item (i.e. commodity, software, technology, equipment, or information) sent from the U.S. to a foreign destination, as well as the transfer of written documents or information via email, phone, fax, internet, and verbal conversations.

Export Administration Regulations (EAR, 15 C.F.R. 730-774) control exports of dual-use items and technologies. EAR-controlled items are less sensitive than ITAR-controlled items, so not all exports require a license. Rather, the Commerce Department’s licensing requirements are based on the nature of the item, the destination country, the recipient and the recipient’s intended use of the item.

Export 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 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) 15 C.F.R. 740.

Foreign National Anyone who is not a U.S. citizen, 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).

Foreign Assets Control Regulations (FACR, 31 C.F.R. 500-599) (Also known as the Office of Foreign Assets control or OFAC Regulations) control exports, travel, and financial transactions involving embargoed countries. Many transactions, including research and teaching collaborations, require special permission for OFAC.

Fundamental Research Basic or applied research in science, engineering and mathematics where the resulting information is ordinarily published and shared broadly in the scientific community, for which the researchers have not accepted restrictions for proprietary or national security reasons.

International Traffic in Arms Regulations (ITAR, 22 C.F.R. 120-130) govern exports of military technologies. The ITAR also control information required for the development operation of military technologies. Technologies controlled by the ITAR are the most sensitive and therefore the most tightly controlled.

Technology control plans (TCPs) are documents that record procedures for securing and managing access to controlled items. TCPs may be specific to individual research projects, or may be established to secure equipment or information that is used for several activities. TCPs are separate from biosafety and radiation safety protocols, and may be required in addition to them.

Re-Export Occurs whenever any item (i.e. commodity, software, technology, equipment or information) is sent from one foreign country to another foreign country.

Additional Contacts

Subject	Contact	Phone	Email
Travel	Lee Purdy	308-865-8641	purdyla@unk.edu
Foreign Visitors	Lee Purdy	308-865-8641	purdyla@unk.edu
Research	Richard Morcarski	308-865-1582	mocarckira@unk.edu

Forms

Form for Research: researchportal.unk.edu

International Travel & Assessment Form for visitors: nuramp.nebraska.edu/login

History