



**EXPORT CONTROL
PROGRAM MANUAL**

TABLE OF CONTENTS

Introduction	3
Section One: Export Controls in Research Policy Statement	3
Section Two: Overview of United States Export Control Laws and Regulations	5
I. Export Administration Regulations (EAR):	5
II. International Traffic in Arms Regulations (ITAR)	7
III. Office of Foreign Assets Control (OFAC) Regulations.....	7
IV. Miscellaneous Regulations	8
Section Three: U-M Export Control Program	8
I. Organizational Chart.....	8
II. Research Involving the Export of Items Outside of the U.S.	9
III. Research Involving “Deemed Exports” to Foreign Persons Inside the U.S.	10
IV. Research Involving Export-Controlled Technology	11
V. Technology Control Plan	11
VI. Export Classifications	12
VII. Travel Outside the U.S.	12
VIII. Restricted Party Screening	13
IX. International Financial Transactions	14
X. Foreign Nationals Visiting or Working in U-M Facilities	14
XI. Recordkeeping and Retention Requirements.....	14
Section Four: Intersection with other University Units	15
I. Environmental, Health and Safety (EHS).....	15
II. Institutional Review Boards	15
III. Office of Research and Sponsored Projects (ORSP)	15
IV. Office of Technology Transfer (OTT).....	16
V. Procurement Services	16
VI. International Center	16
VII. Information and Technology Services (ITS).....	17
VIII. Office of General Counsel (OGC).....	17
IX. Office of University Audits.....	17
X. University Terminology and List of Responsibilities.....	18
Terms and Definitions	19
Associated U-M policies	23
Websites	24
Contact	25
History	25

Introduction

Export Controls are laws and regulations imposed by the United States federal government on the dissemination of “controlled” technology to destinations and persons outside of the U.S. (known as an “export”) as well as the disclosure of “controlled” technology to Foreign Nationals, within the U.S. (known as a “deemed export”). “Controlled” technology may include export controlled physical items, electronic information, technical data, training, consulting, technical services and even in some cases the prohibited transfer of funds. The export control regulations are intended to protect U.S. foreign policy interests, protect national security, prevent terrorism and the proliferation of weapons of mass destruction, and preserve U.S. economic competitiveness.

This University of Michigan Export Control Program Manual (“Manual”) describes the University of Michigan’s (“University” or “U-M”) Export Control Program. The Manual is intended to be a resource for faculty, staff and students whose work on campus involves responsibility for export controlled technology. The U-M Export Control Program covers all U-M campuses, including regional campuses such as U-M Dearborn and U-M Flint, and the Manual is intended to be used by all U-M campuses to assist in identifying and managing export control issues and to ensure compliance with export control laws.

The Manual is intended to provide information and guidance to U-M employees on how to lawfully promote the transfer of technology and sharing of information inside and outside the United States with faculty, students, staff, researchers, visitors, and Foreign Nationals all while complying with export control laws and regulations. The Manual contains the U-M policy statement on export controls in research, information about the laws and regulations concerning export controls, explanations of how and when export control issues can arise, guidance on how export control issues should be identified and addressed, and when the Fundamental Research Exclusion (FRE) applies. At the end of the Manual is a list of definitions, commonly used terms, and a roles and responsibilities matrix.

The Manual is not intended as, and should not be considered, formal legal advice. Specific questions about export control compliance should be directed to the U-M Export Control Officer (ECO). Additional information about the U-M Export Control Program, including a copy of this Manual and contact information for U-M’s Export Control Officer, can be found on the [Export Controls](#) section of the [Research Ethics and Compliance](#) website.

Section One: Export Controls in Research Policy Statement

U-M complies with U.S. export control laws and regulations. U-M requires all University Personnel to comply with all U.S. export control laws and regulations while engaged in activities at or on behalf of the University. The U-M Vice President for Research has affirmed this policy statement and has also issued a [memorandum](#) on guidelines for export controls compliance in research.

U-M is also committed to its longstanding tradition of open academic exchange and its policy of openness in education and research, including the participation of international faculty, students, and staff in research and educational activities. To balance the concerns of openness in research and education with its compliance obligations under the U.S. export control laws, U-M utilizes the exclusions and exceptions in the export control regulations to the fullest extent legally available. One such exclusion is the Fundamental

Research Exclusion (FRE), which states that federally sponsored University research should be unimpeded by export controls unless there are legitimate national security concerns at stake. U-M positions itself so that much of its research is “fundamental” as defined by National Security Decision Directive (NSDD) 189. U-M reviews any project potentially involving export controls to determine whether the project can proceed without any export control restrictions.

To qualify as “fundamental research,” research must be conducted free of any publication restrictions or access or dissemination controls. To safeguard the FRE, the U-M will ensure throughout a fundamental research project that all research results are widely and openly published and made available to the academic community. Any sponsored research project that could potentially involve export controls should be marked in eResearch on the Proposal Approval Form (PAF), and then the project will be reviewed by the Export Control Officer. In order to manage export controlled projects, a Technology Control Plan (TCP) may need to be put in place or an export license may need to be applied for by the Export Control Officer.

Even when the FRE applies to a research project, if a University activity involves an export or deemed export, the University must document that an export control review and analysis was performed before the export or release of information takes place. It is also important to note that although the results of “fundamental research” are exempt from export controls, the actual item, technology, or software under study is not automatically exempt and may still require an export license and/or a Technology Control Plan.

All University personnel should be aware of export controls compliance but especially those whose work involves, but is not limited to, the following activities:

- Activities or research in controlled areas (e.g., encryption technology, nuclear technology, chemical/biological weapons, select agents and toxins, military technologies).
- Activities involving the shipping or traveling with equipment, technology, or software internationally.
- Activities involving teaching and research collaborations with foreign colleagues or the participation or training of Foreign Nationals here or abroad.
- Activities involving travel or work outside the U.S.
- Conducting tours with Foreign Nationals through research areas.
- Conducting research sponsored by any entity that restricts publication or participation by Foreign Nationals.
- Activities involving the receipt and/or use of export-controlled information or technologies from other parties.

Violations of export control laws and regulations must be reported completely and expeditiously. Violations may result in severe criminal and civil penalties for both University Personnel who willingly or knowingly violate the export control regulations and the University itself. U-M requires all University Personnel who suspect any violation of a Technology Control Plan, a license, a license exception, or the export control laws and regulation in general to contact the U-M Export Control Officer immediately.

Section Two: Overview of United States Export Control Laws and Regulations

U.S. Export Control laws and regulations control the conditions under which certain items can be transmitted or shipped internationally to anyone (including U.S. citizens) or disclosed, released, or transferred to a Foreign National on U.S. soil (“deemed export”). Under U.S. export control laws and regulations, exports are broadly defined as:

- Shipment of any controlled goods or items.
- The electronic or digital transmission of any controlled goods, items or technology or services related to controlled goods.
- Any release or disclosure, including oral disclosures or visual inspections, of any controlled technology, software or technical data to certain foreign nationals; or
- Actual use or application of controlled technology on behalf of, or for the benefit of, any foreign entity or person regardless of where they are located.

Failure to comply with export control requirements may result in severe penalties to the University, as well as criminal sanctions to individuals. Individuals working in the following areas, which are most likely to be subject to export controls, should become familiar with those laws and regulations and the procedures described below: engineering; physical and computer sciences (especially when involved in defense-related research); the biological sciences and medicine (including work with select agents and infectious materials); or anyone conducting research or academic collaborations with colleagues in countries that have been designated by the U.S. government as sanctioned or as supporting terrorism.

The three primary sources of export control regulation are:

- The U.S. Department of Commerce - Bureau of Industry and Security (BIS), through the Export Administration Regulations (EAR), controls proliferation of some non-military technologies and commercial items that have potential military applications, otherwise known as “dual-use” technology.
- The U.S. Department of State - Directorate of Defense Trade Controls (DDTC), through International Traffic in Arms Regulations (ITAR), controls proliferation of certain military technologies such as weapons, chemical and biological agents, vehicles, missiles, equipment, and satellites.
- The U.S. Department of Treasury - Office of Foreign Assets Control (OFAC), prohibits transactions with countries subject to boycotts, trade sanctions, and embargoes. OFAC may prohibit travel and other activities with embargoes countries and individuals even when ITAR and EAR do not apply.

I. **Export Administration Regulations (EAR):**

The U.S. Department of Commerce, Bureau of Industry and Security (BIS) issues the Export Administration Regulations (EAR), 15 CFR Parts 730 through 774, to implement the Export Administration Act (EAA) and other statutory requirements. Amendments to the EAR are published in the Federal Register. Items subject to the EAR include purely civilian items, “dual-use” items with both civil and military, terrorism or potential

WMD-related applications, and items that are exclusively used for military applications but that do not warrant control under the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120 *et seq.*).

BIS is charged with the development, implementation, and interpretation of U.S. export control policy for items subject to the EAR and maintains the Commerce Control List (CCL), a list of items under the export control jurisdiction of the U.S. Department of Commerce and their Export Control Classification Numbers (ECCNs). The CCL does not include items exclusively controlled for export by another department or agency of the U.S. Government, though in instances where other agencies administer controls over related items, entries in the CCL may contain a reference to such controls.

The BIS is also responsible for the development, implementation, and interpretation of the antiboycott provisions of the EAR, 15 CFR Part 760. The antiboycott provisions discourage, and in some cases, prohibit U.S. persons from participating in foreign boycotts that the United States does not sanction, including complying with certain requests for information designed to verify compliance with the boycott. U.S. persons are also required to report receipt of boycott-related requests. The antiboycott provisions have the effect of preventing U.S. firms from being used to implement foreign policies of other nations that run counter to U.S. policy.

EAR Penalties

Criminal Sanctions for "Willful Violations" of the EAR

- Institution - A fine of up to the greater of \$1,000,000 or five times the value of the exports for each violation.
- Individual - A fine of up to \$250,000 or imprisonment for up to ten years, or both, for each violation.

Criminal Sanctions for "Knowing Violations" of the EAR

- Institution - A fine of up to the greater of \$50,000 or five times the value of the exports for each violation.
- Individual - A fine of up to the greater of \$50,000 or five times the value of the exports or imprisonment for up to five years, or both, for each violation.

Civil (Administrative) Sanctions for violations of the EAR: The imposition of a fine of up to \$12,000 for each violation, except that the fine for violations involving items controlled for national security reasons is up to \$120,000 for each violation. Additionally, for each violation of the EAR any or all of the following may be imposed:

- The denial of export privileges; and/or
- The exclusion from practice before the BIS; and/or
- Seizure/Forfeiture of goods.

II. International Traffic in Arms Regulations (ITAR)

The U.S. Department of State, Directorate of Defense Trade Controls (DDTC), issues the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120-130, to implement the Arms Export Control Act (AECA). Amendments to the ITAR are published in the Federal Register. The AECA confers on the U.S. President the authority to control the export of defense articles and defense services. The President's authority has been delegated to the Secretary of State by executive order, and the DDTC is charged with implementing this authority.

The State Department maintains the United States Munitions List (USML), and the DDTC is charged with controlling exports and (temporary) imports of defense articles and defense services on the USML. The State Department also provides guidance on policy, designation of articles and services on the USML, and issuance of export licenses. Any manufacturer or exporter of articles or services found on the USML is required to register with the DDTC, which helps to validate entities engaged in the defense trade. The U-M is registered with the DDTC to as an exporter to hold ITAR licenses.

ITAR Penalties

Criminal Sanctions:

- Institution - A fine of up to \$1,000,000 for each violation.
- Individual - A fine of up to \$1,000,000 or up to ten years in prison, or both, for each violation.

Civil Sanctions:

- Institution - A fine of up to \$500,000 for each violation.
- Individual - A fine of up to \$500,000 for each violation.

Additionally, for any violation of the ITAR either or both of the following may be imposed:

- The denial of export privileges; and/or
- Seizure/Forfeiture of goods.

III. Office of Foreign Assets Control (OFAC) Regulations

The US Department of Treasury, Office of Foreign Assets Control (OFAC) administers and enforces economic and trade sanctions based on US foreign policy and national security goals against targeted foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and other threats to the national security, foreign policy or economy of the United States, as set forth in 31 C.F.R. §§ 500-599. 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. A complete list of [Sanctions Programs and Country Information](#) can be found in the US Department of Treasury online Resource Center.

OFAC Penalties

Criminal Sanctions:

- Institution - A fine of up to \$1,000,000 for each violation.
- Individual - A fine of up to \$250,000 or up to ten years in prison, or both, for each violation.

Civil Sanctions:

- Up to \$83,864 per violation against the Trading With the Enemies Act (TWEA)
- Up to \$284,582 per violation involving sanctions programs under the International Emergency Economic Powers Act (IEEPA)
- Up to \$75,122 per violation against the Anti-terrorism and Effective Death Penalty Act (AEDPA)
- Up to \$1,414,020 per violation against the Foreign Narcotics Kingpin Designations Act (FNKDA)

Additionally, for any violation of the OFAC regulations, seizure and forfeiture of goods may result.

IV. Miscellaneous Regulations

There are many other Export Control Regulations applicable to the University. The Nuclear Regulatory Commission has regulations for nuclear materials and reactors. The Department of Energy has regulations for assistance to foreign nuclear activities. The Department of Defense has regulations to safeguard classified information. When an export control issue arises, as described below, the U-M's Export Control Program will analyze all of the regulations to come up with an individual management plan for a given situation.

Section Three: U-M Export Control Program

I. Organizational Chart

The U-M Export Control Program assists University Personnel with the identification and management of research projects subject to US export control laws. The program is part of the [U-M Office of Research](#) (UMOR) and is managed by the University's Export Control Officer (ECO) who reports to the Associate Vice President for Research Policy and Compliance as well as the Assistant Vice President for Regulatory Compliance and Oversight. (See Figure 1.) The U-M Associate Vice President for Research Policy and Compliance has been designated as the University's Empowered Official (EO) for export control purposes.

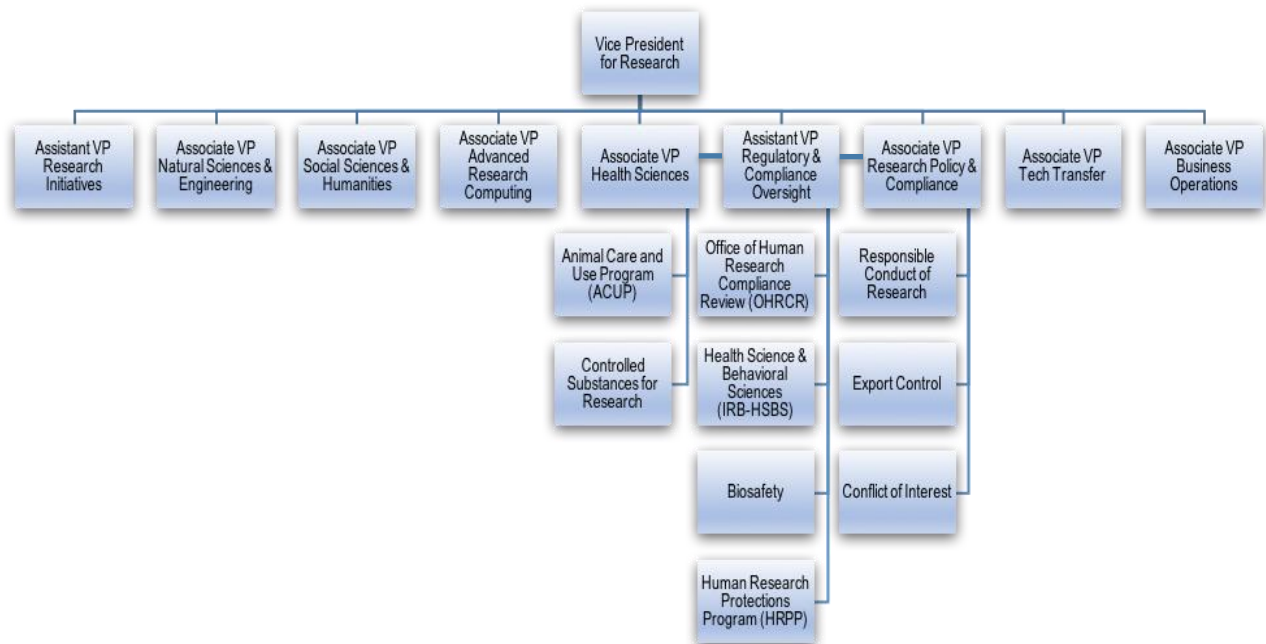


Figure 1. Generalized organization chart of U-M Office of the Vice President for Research. (Note: See the U-M Standard Practice Guide (SPG) and [Office of Research website](#) for detailed organization charts regarding the University Office of the [President](#) and the [Vice President for Research](#).)

The Export Control Officer (ECO) assists members of the University community to assess their export control obligations and facilitates the procurement of required export licenses. The ECO works with the U-M Export Controls Review Committee (ECRC) to provide oversight for research that involves export controls. The ECRC, whose members include U-M leadership from key departments as well as administrators from units engaged in export-controlled research, has the following responsibilities:

- Reviewing and approving Technology Control Plans (TCP).
- Assisting ECO with determinations on export classifications and licensing requirements.
- Approving license applications on behalf of U-M.
- Discussing and recommending action on issues brought forward by the ECO.
- Developing and maintaining U-M's export control policies and procedures.
- Reviewing and advising on escalated technology control plan issues.
- Recommending training priorities.
- Monitoring export controlled projects for regulatory compliance.

Because violation of US export control regulations can result in fines and sanctions against both individual researchers and U-M, U-M policy requires all University Personnel to be aware of and comply with export control regulations and applicable University policies and procedures. With regard to specific research projects, U-M policy places primary compliance responsibility on researchers. All researchers are expected to notify appropriate administrative staff when they suspect that export control laws apply to their research and to ask the ECO for assistance in making a determination, when necessary.

II. Research Involving the Export of Items Outside of the U.S.

The ECO will, upon notice or request, determine the licensing requirements for the export of any item (e.g., software, technology, or information) from the University to destinations outside the U.S. to make this determination, the researcher must provide the following information to the ECO:

- What is the item? This includes a detailed description of the item (including software, technology, or information), technical specifications, and the origin of the item.
- Are there any contractual non-disclosure or use restrictions with respect to the item or results of research involving the item?
- Has the item been assigned an ECCN classification or UMSL category, e.g., by the sponsor or provider of the item?
- Where is the item going?
- To whom is the item going?
- What is the intended end-use?
- Is the item published, patented, or in some other manner in the public domain?

Determining the licensing requirements of an item can be a complicated process, requiring the proper classification of the item and verification and clearance of the target destination, end use, and end users. The final determination of whether an item requires a License, qualifies for a License Exemption, or can be exported as “No License Required” will be made by the ECO in consultation with the ECRC and the researcher(s). If a License is required, the ECO will coordinate the License application process. Obtaining a License can take two to six months (or longer), and there is no guarantee that a License will be issued. No export (or deemed export as discussed further below) may take place until any required License or License Exemption is obtained, or until the ECO has reached a “No License Required” determination.

III. Research Involving “Deemed Exports” to Foreign Persons Inside the U.S.

The release or transmission of information or technology subject to Export Control regulations to any Foreign National within the U.S. is a “Deemed Export” and is considered to be an export to that person’s home country. Examples of “releases” to Foreign Nationals can include providing access to controlled software, technology, or equipment by visual inspection or use, providing access via tours of facilities, providing access to technical specifications, and oral or written exchanges of information. In some instances, a License may be required before the information can be released. It is the responsibility of the ECO in consultation with the ECRC and researcher to determine the licensing requirements involving deemed exports. To make this determination the researcher needs to provide the following information to the ECO:

- Information to be released – This includes a detailed description of the information, item, software, or technology, technical specifications, origin of the item and/or any contractual non-disclosure or use restrictions that may exist.
- A list of the home country and citizenship of all persons that will be given access to the information, item, software, or technology.
- Origin of the information or item, software, or technology, including whether it resulted from Fundamental Research.
- Whether the item, software, or technology is published, patented, or in some other manner in the public domain.

The final determination whether a “deemed export” requires a License and whether U-M will pursue a License will be made by the ECO in consultation with the ECRC and the researcher(s). If a License is required, the ECO will coordinate the License application process. Obtaining a License from the various Departments of the U.S. Government can take two to six months (or more), and there is no guarantee that a License will be issued. A “deemed export” of information or items to foreign nationals within the U.S. may not occur until the required License is obtained, and researchers should consider this U.S. Governmental timeframe in determining when to initiate their consultations with the ECO.

IV. Research Involving Export-Controlled Technology

Export controlled items used in U-M research may be received from external parties or may be generated at U-M by U-M Personnel. Before accepting any export controlled item from an external party, such as the federal government or industry, University Personnel should contact the ECO for help in determining potential compliance requirements. Depending on the export classification of an item, Foreign Nationals may or may not be able to have access to an item used in a research project. If a research project involves the receipt or use of externally obtained export controlled items, such as information, technology, or software, the researcher must work with the ECO to obtain the classification of the item from the external party. The researcher, with help from University Human Resources, must also determine the current citizenship status of those University Personnel who would have access to the export controlled item. Unless a license is obtained for a Foreign National to have access to an export controlled item, the researcher must ensure that appropriate safeguards to prevent access by foreign nationals are implemented. The ECO and the researcher may also work together to put a Technology Control Plan in place on the project to manage export controlled technology.

V. Technology Control Plan

If export control regulations apply to a research project, it may be possible to put a Technology Control Plan (TCP) in place instead of applying for an export License. A TCP may also be required if a contract or other agreement contains language restricting the use of Foreign Nationals or delaying the publication of research results beyond 180 days and/or for reasons other than the review of patent or proprietary sponsor information. More information can be found on the [Technology Control Plans and Licenses](#) page on the U-M Export Controls website.

A TCP is a formal document that outlines the procedures that the researcher will implement to prevent export controlled technology (e.g., physical items, electronic information, software, or hardware) from being accessed by unlicensed non-U.S. persons. TCPs are developed through the joint efforts of the ECO and researchers, and describe the controlled items, the project the items will be used in and the export controls that apply, as well as the physical and information security measures that will be used to manage those items to ensure compliance with the export control regulations.

The TCP must also list the names and citizenship of all University personnel who will have access to the controlled technology. Each individual listed on the TCP will be screened against restricted party lists in Descartes Visual Compliance by the ECO. Each individual listed on the TCP must complete the export control training module through the Program for the Education and Evaluation in Responsible Conduct of Research ([PEERRS](#)).

TCPs are reviewed and approved by the ECRC and then routed for signatures of the PI, Department Chair, Dean, and all other individuals listed on the TCP. The PI must review the TCP with all project personnel before they begin work on the project. If applicable, the TCP may include a signed certification by the PI and all participating personnel acknowledging that the publication restrictions on this project may adversely affect their ability to publish or complete a thesis/dissertation. The TCP must be amended when, for example, a new researcher is added to the research team or the scope of work changes. The University will conduct periodic audits of compliance with the TCP.

If it is not possible to manage an export controlled technology through a TCP, then a License or Technical Assistance Agreement (TAA) may be required. A TAA is an agreement (e.g., contract) amongst companies and organizations governing how and what technical information will be discussed, presented and/or conveyed to foreign nationals in the course of a project controlled under the International Traffic in Arms Regulations (ITAR), such as technical interchange meetings (i.e., PDR, CDR, etc.), joint design work, training, or provision of other assistance.

It is important to note that it is not always possible to obtain a License or to develop an appropriate TCP, so there may be some proposed activities that cannot be conducted at U-M. The Empowered Official will make the final decision in such cases.

VI. Export Classifications

Determining whether equipment, materials, products, software or information are export controlled and fall within the scope of the export control regulations is called export classification. Export classifications may need to be done for many different reasons, including to determine whether an export controlled item may be shipped internationally to a specific country or to determine whether a researcher is working with export controlled technology that needs to be protected. If an item has been purchased from a vendor or manufacturer, then the best source of the export classification for the item is to check with the vendor or manufacturer of the item. If the classification cannot be gotten from the vendor or manufacturer, then it will be necessary to consult the Export Control Officer. Determining the correct classification can be challenging, requiring technical knowledge about the item as well as understanding of the export control regulations. Determining whether an item is subject to ITAR or EAR is critical, and determining the correct ECCN for EAR items is very important. Mistakes here can have serious consequences to U-M. The Export Control Officer will work with U-M personnel to conduct export classifications and document them appropriately.

VII. Travel Outside the U.S.

All international travel for University business must be registered with the U-M International Center. Traveling outside the United States with certain items (e.g., personal laptop computers running encryption software, MTokens, wireless network hardware/software, some GPS systems) may require a License or License Exception depending on the travel destination. In general, problematic destinations are those countries currently under U.S. embargo, sanction, or other trade restriction. Specific examples include the Crimea region of Ukraine, Iran, Cuba, Syria, and North Korea. U.S. sanction programs may change over time. The U.S. Department of Treasury maintains the current list of [Sanctioned Countries](#) and the U-M [Export Controls website](#) may also be checked for the most current information.

The application of personal knowledge or technical experience to situations in other countries (e.g., during teaching or consulting activities) may also invoke export licensing requirements. University Personnel should obtain assistance from the ECO in determining whether a License is required before engaging in such activities.

All faculty, staff, and students traveling abroad for University-related purposes must register their international travel in the [University Travel Registry](#) before the expected departure date and update the University Travel Registry as additional information becomes available or changes occur throughout the duration of the trip, including the addition of other countries to their travel itineraries. The International Travel Policy can be found in The U-M Standard Practice Guide ([SPG 601.31](#)).

While most foreign travel does not require an export license, travel to certain foreign locations may be governed by export control laws. For example, the [U.S. Department of the Treasury](#) regulations restrict certain financial transactions with specific embargoed countries. Also traveling abroad with certain controlled tangible items, software, technology or information may also require an export license. Individuals traveling to restricted, sanctioned, or embargoed countries are responsible for notifying the Export Control Officer, who will work with the individual to determine whether approval or licenses are necessary.

Once outside the US or upon return to the US, individuals' laptops may be subject to search or may be seized without probable cause, suspicion or warrant. It is important that U-M travelers safeguard personal, sensitive, export controlled, and proprietary data appropriately. Please review the [International travel tips](#) located on the export control website. When preparing for International travel, additional guidance can be found at www.travel.state.gov.

VIII. Restricted Party Screening

The Federal government prohibits US individuals, companies or organizations from conducting business with "restricted parties" (i.e., persons, entities, or countries subject to US trade sanctions, embargoes, or other restrictions). Lists of restricted parties are issued by many U.S. Government agencies, including the Department of Commerce, Department of State, Department of Treasury, the Federal Bureau of Investigation, and the Department of Homeland Security. The Office of Foreign Asset Controls (OFAC) is the central repository for many of these lists. Each list includes both U.S. and foreign individuals and organizations.

Restricted Party Screening (RPS) involves searching these lists for names of individuals, entities, and countries. Because the Federal government can impose both civil and criminal penalties for transferring export-controlled items to or transacting with a restricted party, the U-M's Export Controls Program conducts restricted party screening of the names of research sponsors, subcontractors, vendors, and other parties from foreign countries before entering into contractual agreements with them. U-M holds a license to Visual Compliance, a software program that checks all of the federal lists simultaneously. Because restricted party screening may be complicated, U-M requires that you contact the Export Controls Officer to request screening, as opposed to reviewing the multiple lists yourself.

The University requires all University Personnel to contact the U-M ECO before transacting with restricted parties or shipping export controlled items. The Export Controls Officer will ensure that all persons known to be involved in a potential transaction have been properly screened.

IX. 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 an embargoed country). Before agreeing to provide funding to any Foreign National, University personnel should ask the ECO for assistance in identifying potential restrictions on the transaction.

X. Foreign Nationals Visiting or Working in U-M Facilities

The University has established procedures to monitor visits by or assignments of Foreign Nationals to its facilities to ensure that the disclosure of, and access to, export-controlled articles and related information are limited to those that are approved by an export authorization.

Visiting Scholars

Departments, programs and other academic units of the U-M may invite faculty researchers from other universities as visiting scholars. [Visiting Scholar status](#) is reserved for scholars who are invited to pursue a program of research during a limited term of residence. Visiting Scholars may have access to certain limited U-M services and resources. The ECO must review all foreign nationals who are not degree-seeking students enrolled at the University before those individuals can be granted Visiting Scholar status.

Non-Immigrant Visa Applicants

In accordance with part 6 of the I-129 Petition for a Nonimmigrant Worker, the University must certify whether or not an H-1B/H-1B1/L-1/O-1A applicant requires an export license. The ECO reviews these petitions in coordination with the International Center.

Facility or Lab Tours

Researchers who invite Foreign Nationals to the U-M to tour their facilities and/or labs must contact the ECO in advance of the visit to ensure proper screening and export control compliance.

XI. Recordkeeping and Retention Requirements

The University is required to maintain a complete record of all export control documentation, including but not limited to Technology Control Plans, Technical Assistance Agreements, the University's export classifications and analysis of license requirements, any issued licenses, shipping documents, and any correspondence related to each export-controlled transaction. Records must be retained for five years from the date of export, re-export, or transfer.

The ECO is responsible for maintaining a central repository of export control records. Researchers and other University personnel are responsible for forwarding all relevant export control documentation to the ECO for archiving.

The ECO maintains export control records as follows:

- Export control records are maintained electronically in eResearch Proposal Management (eRPM).
- Technology Control Plans, Licenses, Technical Assistance Agreements, export classifications, and all related paperwork are maintained in eRPM as Unfunded Agreements and linked to individual sponsored projects, if applicable.
- Export control record end dates are tracked by eRPM and notices are generated by the system so that export control files can be closed out and compliance with return/destroy procedures can be appropriately documented. See the [Information and Technology Services \(ITS\)](#) section regarding safe computing.

Section Four: Intersection with other University Units

I. Environmental, Health and Safety (EHS)

Export control regulations include provisions for the control of specified biological materials (i.e., pathogens and toxins) chemicals, chemical agent precursors, propellants, explosives, and energetic materials. The controls for these materials differ depending on which regulations control the item. [Environmental, Health and Safety](#) (EHS) provides services to the University community that encompass environmental stewardship (hazardous waste management) and occupational health and safety, which include areas such as laboratory/chemical safety, radiation safety, and biological safety. EHS also provides training in these areas to researchers and their staff, students, and other personnel as appropriate. The Director of EHS has access to the Visual Compliance database and search engine and designates other EHS personnel to utilize this resource to help determine the export control classification of materials and technology that fall under their purview.

The Export Control Program will work with EHS (and any relevant research safety committees) when potential export control issues are identified through EHS's review of proposed research that utilizes these agents or materials.

II. Institutional Review Boards

The University of Michigan operates its [Human Research Protection Program](#) (HRPP) under a Federal Wide Assurance (FWA) with the Department of Health and Human Services. The U-M Institutional Review Boards (IRBs) that review human research projects alert the Export Control Program when they identify potential issues with proposed international research, including issues related to export controls. Sponsored research agreements that involve export controls are flagged on the Proposal Approval Form (PAF) and triaged to the ECO for review.

III. Office of Research and Sponsored Projects (ORSP)

The [Office of Research and Sponsored Projects](#) (ORSP) is responsible for the oversight of U-M's externally sponsored projects. ORSP plays a role throughout the lifecycle of a grant or contract, which includes proposal review and submission, the negotiation of an award, and post-award administration. ORSP project representatives (PRs), work closely with the ECO when they identify a grant or contract with potential export control considerations such as restrictions on participation of foreign nationals, publication restrictions, or assignment of research results to a Sponsor – as any of these may nullify the Fundamental

Research Exemption. When a project is identified for Export Control review, the ORSP PR works with ECO to determine the appropriate management of the project.

IV. Office of Technology Transfer (OTT)

The [Office of Technology Transfer](#) (OTT) handles technology transfer, new venture creation, and facilitating interactions between industry and U-M faculty. OTT is responsible for the protection, marketing, and licensing of Intellectual Property (IP) developed by U-M personnel. OTT reviews all outgoing Non-Disclosure Agreements (NDA), and Material Transfer Agreements (MTA), License and Option Agreements and other miscellaneous intellectual property agreements. If any export control issues arise from OTT's review of such agreements, the ECO is consulted and appropriate management plans are put in place as needed.

V. Procurement Services

Procurement agent(s) review purchase and service agreements for evidence that the equipment to be purchased is subject to export control restrictions or whether contractors are in boycotted countries or on any restricted entity/persons lists. [Procurement Services](#) will notify the ECO when equipment is determined to be export controlled or when other export-related issues are present. The ECO works with the investigator(s) and relevant Chair(s), Dean(s) or other unit Director(s), as applicable, to ensure that no violation of the U.S. Export rules will occur if the item(s) is purchased and used at U-M, or if the desired contractor provides services to the University. Procurement has access to the Descartes Visual Compliance database system to screen vendors in an effort to perform export control due diligence. The ECO provides Procurement with the necessary training on using Descartes Visual Compliance.

VI. International Center

The [International Center](#) supports and enhances the educational, cultural, and social experiences of U-M international students and scholars. It serves as a primary link to the University, the community, the federal government, and public and private agencies and organizations. In addition, it provides international and cross-cultural educational programs to U-M and its community. The International Center also processes various immigration forms, including the new version of the U.S. Citizenship and Immigration Services' (USCIS) Form I-129, which is mandated for H-1B, H-1B1, L-1, or O-1A workers. USCIS has added two specific questions to the I-129 Petition for a Non-Immigrant Worker relating to compliance with federal export control regulations involving "deemed exports." If such an issue is present, the ECO conducts a review and it may be necessary to request a license from the Departments of State or Commerce before the foreign national can participate in an Export-Controlled project. The licensing process takes time and may involve a fee, and the request can be denied. Only the Export Control Officer can request a license. All faculty, staff, and students traveling abroad for University-related purposes must register their international travel in the [University Travel Registry](#) before the expected departure date and update the University Travel Registry as additional information becomes available or changes occur throughout the duration of the trip, including the addition of other countries to their travel itineraries ([SPG 601.31](#)). While most foreign travel does not require an export license, travel to certain foreign locations may be governed by export control laws. For example, the [U.S. Department of the Treasury](#) regulations restrict certain financial transactions with specific embargoed countries. Also traveling abroad with certain controlled tangible items, software, technology or information may also require an export license. Individuals traveling

to restricted, sanctioned, or embargoed countries are responsible for notifying the Export Control Officer, who will work with the individual to determine whether approval or licenses are necessary.

Once outside the US or upon return to the US, individuals' laptops may be subject to search or may be seized without probable cause, suspicion or warrant. It is important that U-M travelers safeguard personal, sensitive, export controlled, and proprietary data appropriately. Please review the [International travel tips](#) located on the export control website. When preparing for International travel, additional guidance can be found at www.travel.state.gov.

VII. Information and Technology Services (ITS)

[Information and Technology Services](#) works with the campus community to provide a safe computing environment that supports core missions of U-M. ITS is primarily responsible for protecting U-M systems and networks to ensure the confidentiality, integrity, and availability of institutional, academic, and research data. Faculty, staff, and U-M workforce members share with ITS the responsibility to protect sensitive university data to which they have authorized access. This shared responsibility is especially significant with respect to export controlled research that includes information that is regulated for reasons of national security, foreign policy, anti-terrorism, or non-proliferation. As custodians of such data, faculty and principal investigators are also responsible to comply with all U-M information security and institutional data management policies and procedures as well as applicable laws, statutes, and regulations. These policies apply to University-owned and -managed computers, as well as to sponsor-provided or funded devices used to access export controlled data, software, and equipment.

ITS provides detailed [IT security guidance](#) to PIs that need to comply with export control regulations on minimum requirements for securing computers and other devices; [international travel](#) with electronic devices to embargoed or sanctioned countries; approved campus data storage locations; proper disposal or sanitization of storage media; and obligations for reporting a breach or compromise of sensitive University data.

VIII. Office of General Counsel (OGC)

The [Office of the Vice President and General Counsel](#) (OGC) represents and advises the entire U-M community, including the Board of Regents, the President, the Executive Officers, the University of Michigan Health System and the schools and colleges on all three campuses. The OGC helps the U-M Export Control Program complete its work in accord with the myriad of legal and policy requirements applicable to public research universities. OGC attorneys are members of the Export Control Review Committee and they provide legal advice as needed, when consulted by the Export Control Officer or other committee members.

IX. Office of University Audits

The Office of University Audits supports the University with objective assurance and advisory services that assess risk and promote a strong internal control environment. University Audits works as a resource to all U-M campuses to identify and manage risks and improve processes. University Audits also participates in various advisory and committee roles, continuously monitoring select areas, and facilitating the investigation of fraud. University Audits may also perform internal audits of various compliance areas,

including the Export Control Program, and work with the audited programs to follow-up on and resolve outstanding issues. University Audits reports directly to the Board of Regents and the University President.

X. University Terminology and List of Responsibilities

Position or Office	List of Responsibilities
Faculty/Researcher/Principal Investigator	<ul style="list-style-type: none"> • Identifying research activities in which export control issues might exist. • Notifying the Export Control Officer of identified export control issues. • Working with the Export Control Officer to put technology control plans (TCPs) in place and accurately classify items for licenses. • Informing research team members of any applicable export control requirements, including TCPs pertaining to the project. • Ensuring the appropriate protection and management of all export controlled technology in his or her possession. • Providing all export documentation to the Export Control Officer for archiving.
Research Administrators (or any other person preparing research proposals or sponsored research grants or agreements)	<ul style="list-style-type: none"> • Answering the export control question(s) in eRPM and providing relevant information to enable a review by the Export Control Officer. • Identifying language in proposals or requests for proposals (RFPs) that attempts to place restrictions on the university's ability to publish the research or to place restrictions on the participation or access by Foreign Nationals. • Notifying the Export Control Officer in the event that such restrictions are identified.
Department/College/Unit Director/Dean	<ul style="list-style-type: none"> • Signing TCPs on behalf of their faculty members. • Administering and monitoring existing TCPs of their faculty members. • Notifying the Export Control Officer of any issues that arise regarding the implementation of, or compliance with, any TCP.
Export Control Officer (ECO)	<ul style="list-style-type: none"> • Managing the U-M Export Control Program. • Chairing the ECRC. • Working with researchers to draft TCPs for review by the ECRC. • Assisting researchers in determining export license requirements (in collaboration with the appropriate regulatory bodies). • Raising issues of concern and elevating them for discussion at the ECRC.

Position or Office	List of Responsibilities
Export Control Review Committee (ECRC)	<ul style="list-style-type: none"> • Reviewing and approving proposed TCPs. • Review issues brought to the ECRC for discussion, as needed. • Providing advice and feedback to the ECO. • Developing and maintaining Export Control policies and procedures. • Providing advice on escalated issues. • Setting institutional Export Control policies and procedures. • Recommending program priorities (e.g., for training, etc.). • Monitoring the Export Control Program for regulatory compliance.
Empowered Official (U-M's Associate Vice President for Research, Research Policy and Compliance)	<ul style="list-style-type: none"> • Serves as member of the ECRC. • Decides when proposed activity cannot be conducted at U-M. • Signs license applications on behalf of U-M. • Accepts liability in connection with ITAR violations.

Terms and Definitions

Term	Definition
Commerce Control List (CCL)	A list of items under the export control jurisdiction of the U.S. Department of Commerce. The CCL is divided into ten categories: (0) Nuclear Category Materials, Facilities and Equipment, and Miscellaneous; (1) Materials, Chemicals, "Microorganisms," and Toxins; (2) Materials Processing; (3) Electronics Design, Development and Production; (4) Computers; (5) Telecommunications; (6) Sensors; (7) Navigation and Avionics; (8) Marine; (9) Propulsion Systems, Space Vehicles, and Related Equipment.
Deemed Export	Release or transmission of certain items (e.g., information or technology) subject to export control to a foreign national in the U.S., including graduate students and training fellows. Such a release of information is considered to be an export to the foreign national's home country.
Defense Article	Any item designated in the United States Munitions List (USML). Examples include specified chemical agents, cameras designated for military purposes, specified lasers, and GPS equipment. It also means any technical data recorded or stored in any physical form, models, mock-ups, or other items that reveal technical data directly relating to the particular item or "defense article" listed in the USML.

Defense Service	The furnishing of assistance (including training) anywhere (whether inside the United States or abroad) to foreign nationals in connection with the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing, or use of defense articles, as well as the furnishing of any controlled “technical data” (see definition below) to foreign nationals anywhere.
Dual-Use	Tangible items, software, and/or technology that have both a civilian and military use.
Educational Information	Phrase used by the Department of Commerce in §734.9 of the EAR to denote information that is not subject to the EAR if it is released by instruction in catalog courses and associated teaching laboratories of academic institutions. Certain types of information related to encryption software cannot, however, be considered “educational information” and is subject to the EAR even if released “by instruction in catalog courses and associated teaching laboratories of academic institutions.”
Empowered Official (EO)	Individual authorized by a business enterprise to sign and process license applications on behalf of the company and who must therefore understand the provisions of ITAR (22 C.F.R. Section 120.25), among others. This individual has authority to inquire into any aspect of a proposed export and to verify the legality and accuracy of the information submitted for a transaction, as well as the authority to refuse to sign “any” license application without retribution from his/her company. This is important because the EO is held liable for any violations of ITAR. The EO is also responsible for internal audit of export control compliance.
Encryption	The process of encoding a message so that only the sender and the intended recipient can read it.
Encryption Software	Software whose main task is encryption and decryption of data, usually in the form of files on hard drives and removable media, or email messages sent over computer networks or the Internet.
End-Use	A detailed description of how the ultimate recipient intends to use the commodities being exported.
End-User	The person who receives and ultimately uses the exported or re-exported items. The end-user is not a forwarding agent or intermediary, but may be the purchaser or ultimate recipient.
Export	Sending an item (e.g., commodity, software, technology, equipment, or information) from the U.S. to a foreign destination, including the actual shipment of physical goods and documents as well as the transfer of information via email, fax, and internet. Export also includes sharing of information through conversations in person or on the phone, providing technical or training assistance, or making conference presentations.
Export Administration Regulations (EAR)	A set of federal regulations that regulates the export and re-export of most commercial items.

Export Control Classification Number (ECCN)	A five-character alpha number classification used in the CCL to identify items for export control purposes. ECCNs are found in 15 C.F.R. §774, Supplement 1, and in the Commerce Control List (CCL).
Export Controlled Item	Items subject to export control regulations include, but are not limited to, goods, commodities, materials, defense articles, substances, software, technology, equipment, technical data, information, and funds.
Export Controlled Activity	Activities subject to export control regulations include, but are not limited to, provision of services, technical assistance, training, software downloads, conference presentations, tours of facilities, travel, collaboration in teaching, or research.
Export Controls	Federal regulations that restrict the release of certain items (e.g., commodities, software, technology, equipment, or information) and the provision of certain services (e.g., technical assistance, training) to foreign destinations or to foreign nationals in the United States and abroad for reasons of national security, foreign policy, anti-terrorism, or non-proliferation. Federal export control regulations include the Export Administration Regulations (EAR) and the International Traffic in Arms Regulations (ITAR) as well as regulations administered by the Office of Foreign Assets Control (OFAC).
Foreign National	A person who is not a U.S. citizen or lawful permanent resident of the U.S., or who does not have refugee or asylum status in the U.S. Foreign National also includes a foreign corporation, business association, partnership, trust, society, or any other foreign entity or group, as well as international organizations and foreign governments.
Fundamental Research	“Fundamental research” is defined by the Department of Commerce as basic and applied research in science and engineering where the resulting information is ordinarily published and shared broadly within the scientific community. The State Department has a similar definition, although it can be interpreted more narrowly. Under the narrower interpretation, “fundamental research” can describe only information and technology that already is in existence and in the public domain.
Fundamental Research Exclusion (FRE)	Excludes research defined as “fundamental research” from export control regulations. The Fundamental Research Exclusion applies only to the dissemination of research data and information, not to the transmission of material goods. The Fundamental Research Exclusion is destroyed if: the university accepts any contract clause that forbids the participation of foreign persons; gives the sponsor a right to approve publications resulting from the research; or otherwise operates to restrict participation in research and/or access to and disclosure of research results.
International Traffic in Arms Regulations (ITAR)	A set of federal regulations used primarily to control the import and export of defense articles and defense services.

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.
License Exception (EAR)	An authorization that allows the export or re-export, under very specific conditions, of items that would normally require a license under the EAR. Export License Exceptions are detailed in EAR §740
License Exemption (ITAR)	An authorization that allows the export of unclassified defense articles without approval from the Office of Defense Trade Controls. Export License Exemptions are detailed in ITAR § 123.16
Open Meeting	Term used to describe a conference, seminar, or other gathering where all technically qualified members of the public are eligible to attend and attendees are permitted to take notes or otherwise make a personal record of the proceedings and presentations.
Patent Information	Information contained in a patent application, or an amendment, modification, supplement or division of an application. Such information is not subject to the EAR pursuant to §734.10 and §734.7(a) 3.
Published Information and Software	Term used to describe information that has become generally accessible to the interested public in any form. Pursuant to EAR §734.7, this type of information is not subject to the EAR. Examples of published information and software include the following: Information published in print or electronic media available for general distribution, information readily available at public or university libraries, and/or Information released at an open conference, meeting, or seminar.
Re-export	An actual shipment or transmission of controlled tangible items, software, or information from one foreign country to another foreign country. The export or re-export of controlled, tangible items, software, or information that will transit through a country or countries, or will be unloaded in a country or countries for reloading and shipment to a new country, or are intended for re-export to the new country, are deemed to be exports to the new country.
Technical Assistance	Instruction, skills training, working knowledge, and consulting services, as well as the transfer of technical data.
Technical Assistance Agreement	An agreement (e.g., contract) for the performance of a defense service(s) or the disclosure of technical data, as opposed to an agreement granting a right or license to manufacture defense articles.

Technical Data	Term used by the State Department to describe information required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance, or modification of defense articles. Technical data includes information in the form of blueprints, drawings, photographs, plans, instructions, and documentation, as well as information covered by an invention secrecy order or certain kinds of classified information. The term “technical data” can include software directly related to defense articles, but does not include information concerning general scientific, mathematical, or engineering principles commonly taught in schools, colleges and universities. It also does not include information in the public domain or basic marketing information on function or purpose or general system descriptions.
Technology	Any specific information and know-how (whether in tangible form – such as models, prototypes, drawings, sketches, diagrams, blueprints, manuals, or software – or in intangible form, such as training or technical services) that is required for the development, production, or use of a good, but not the good itself.
United States Munitions List (USML)	List of articles, services, and related technical data designated as defense articles and defense services. The State Department has stated that the USML is illustrative only, meaning that the absence of an item on the USML does not conclusively rule out the possibility of its being a defense article or defense service.
University Personnel	Faculty, staff, visiting scholars, postdoctoral fellows, students, and all other persons retained by or working for the University. All University Personnel shall comply with all U.S. export control laws and regulations while engaged in activities at or on behalf of the University.
U.S. Person	<i>Under ITAR, 22 CFR 120.15, any person who is a lawful permanent resident as defined by 8 U.S.C. 1101(a)(20) or who is a protected individual as defined by 8 U.S.C. 1324b(a)(3). Also, any corporation, business association, partnership, society, trust, or any other entity, organization or group that is incorporated to do business in the United States. Also, any governmental (federal, state or local) entity. Under EAR, 15 CFR 760.1(b), any person who is a United States resident or national, including individuals, domestic concerns, and "controlled in fact" foreign subsidiaries, affiliates, or other permanent foreign establishments of domestic concerns.</i>

Associated U-M policies

- Implementation of Regents' Policy Concerning Research Grants, Contracts, and Agreements ([SPG 303.01](#))
- Proper Use of Information Resources, Information Technology, and Networks at the University of Michigan ([SPG 601.07](#))
- Institutional Data Resource Management Policy ([SPG 601.12](#))
- Sensitive Regulated Data: Permitted and Restricted Uses Standard ([DS-06](#))

- Security of Personally Owned Devices That Access or Maintain Sensitive Institutional Data ([SPG 601.33](#))
- Unit-Specific Requirements for Self-Management of Personally Owned Devices That Access Sensitive Institutional Data ([DS-07](#))
- Information Security Incident Reporting Policy ([SPG 601.25](#))

Websites

The University of Michigan Export Control website
<http://research-compliance.umich.edu/export-controls>

National Security Decision Directive (NSDD) 189
<http://fas.org/irp/offdocs/nsdd/nsdd-189.htm>

Commerce Department

U.S. Bureau of Industry and Security (BIS)
<http://www.bis.doc.gov>

Export Administration Regulations Database
<https://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear>

Commerce Control List
<http://www.bis.doc.gov/index.php/regulations/commerce-control-list-ccl>

Denied Persons List
<http://www.bis.doc.gov/dpl/thedeniallist.asp>

Denied Entity List
<http://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern/entity-list>

Unverified List
<http://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern/unverified-list>

State Department

U.S. State Department – International Traffic in Arms Regulations (ITAR)
https://www.pmddtc.state.gov/ddtc_public?id=ddtc_kb_article_page&sys_id=24d528fddbfc930044f9ff621f961987

The United States Munitions List
<https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=70e390c181ea17f847fa696c47e3140a&mc=true&r=PART&n=pt22.1.121>

Debarred Parties List
http://pmddtc.state.gov/compliance/debar_intro.html

Excluded Parties List System
<https://www.sam.gov>

Treasury Department

Office of Foreign Assets Control
<http://www.treas.gov/offices/enforcement/ofac/>

Specially Designated Nationals and Blocked Persons List
<https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>

OFAC Countries Sanctions Programs
<http://www.treas.gov/offices/enforcement/ofac/programs/>

Contact

[University of Michigan Compliance Hotline](#): 1-866-990-0111
For reporting financial, regulatory, NCAA, and patient safety issues

Krista L. Campeau, J.D., ECoP®
University of Michigan Export Controls Officer
Director, Export Control Program
1600 Huron Parkway, Bldg. 520, Rm. 1142
Ann Arbor, MI 48109-2800
Phone Number: (734) 615-0672
Email: exportcontrols@umich.edu
Website: <http://research-compliance/export-controls>

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