



Export Management

Policy Number: 05-004

Research/Academic Policy

Effective Date: 10/01/2005

Revisions: 2/25/2008, 6/23/2008

Responsible University Officer

- Vice Chancellor for Research

Responsible University Office

- Office of Research Integrity

Related Policies

- Principal Investigator Eligibility

Policy Statement:

University of Alaska Fairbanks (UAF) faculty, staff, students, and affiliates (including non-UAF consultants, collaborators, etc.) must comply with all applicable export laws and regulations. This policy specifically addresses the conduct of university activities subject to any of the following: the Arms Export Control Act, the International Traffic in Arms Regulations (ITAR), the Export Administration Act, the Export Administration Regulations (EAR), and all economic and trade sanctions administered and enforced by the Office of Foreign Assets Control (OFAC). Activities subject to export controls include, but are not limited to, the transfer of controlled information, materials, software, technology or assets to foreign countries or to foreign nationals in the United States.

The UAF Vice Chancellor for Research is charged with oversight of all aspects of the University of Alaska Fairbanks export management program.

Background:

University activities are subject to regulations administered and enforced by the Directorate of Defense Trade Controls (DDTC), the Bureau of Industry & Security (BIS), and the Office of Foreign Asset Controls (OFAC). In very simplistic terms, the EAR covers items, software, and technology having both military and civilian utilities; ITAR covers items, software and technology that are predominantly military in nature; and, OFAC sanctions deal with the transfer of assets. The University of Alaska Fairbanks (UAF) has specific responsibilities and obligations under these regulations, as do individuals involved in importing or exporting.

The UAF Vice Chancellor for Research is the signatory on the single ITAR registration for the University of Alaska System (UA). The UAF Office of Research Integrity (ORI) provides administrative support for this registration. The UAF Vice Chancellor for Research may identify one or more "empowered officials" to handle ITAR licensing issues with the Department of

State, Directorate of Defense Trade Controls. EAR and OFAC licensing does not require a System-wide registration, and is therefore handled independently by each university within the University of Alaska System. The Vice Chancellor for Research is the UAF institutional official responsible for oversight of EAR and OFAC licensing.

The UA Office of General Counsel, and UAF Offices of Grant & Contract Administration (OGCA) and Technology Transfer (OTT) work to remove export controlled language whenever it is inappropriately included in funding awards, contracts, non-disclosure agreements, and other legal documents. However, when export controls are applicable OGCA and OTT notify and work with the ORI to ensure compliance with the regulations.

The ORI can assist UAF personnel in determining when EAR, ITAR and OFAC sanctions apply and provides general advice and referrals regarding permit and licensing requirements under many other regulations and agencies.

Many other federal agencies, in addition to BIS, DDTC, and OFAC, also have import-export authority under United States Code. Examples of other regulated commodities include, but are not limited to, wildlife and wildlife tissues, plants and plant products, soil, infectious agents, genetically modified organisms, and cultural artifacts. Each federal department or agency develops its own regulations, which can be found in the Code of Federal Regulations. Many of these regulations, unlike the EAR and ITAR, allow individuals to apply for permits and licenses to cover their own activities. Obtaining these permits is the responsibility of the UAF employee in charge of the activity, but advice and guidance is available from ORI.

State agencies or departments may also have regulatory authority over the transfer of commodities into or out of their jurisdiction. Obtaining these permits is the responsibility of the UAF employee in charge of the activity; however, if the oversight agency requires a signature from an authorized institutional representative you must contact ORI.

Programs involving U.S. government classified information (confidential, secret and top secret) fall under the oversight of the Facility Security Officer, named on the University's Facility Clearance. In situations involving the export of U.S. government classified information this policy may be applicable in addition to the procedures specified by the National Industrial Security Program and its implementation manual, the National Industrial Security Program Operating Manual.

Definitions: *(Some definitions included in this section are necessary for interpretation of the U.S. government regulations rather than this policy.)*

- **Arms Export Control Act (AECA)**, 22 U.S.C. 2778 et seq, is the Federal law that provides the President with the authority to control the export and import of defense articles.
- **Bureau of Industry and Security (BIS)** is the department within the Department of Commerce charged with administration and enforcement of the Export Administration Regulations (EAR).
- **Deemed Export** is the release to a foreign national (regardless of the means of release) of technology or source code subject to export controls. Such release is *deemed to be an export* to the home country or countries of the foreign national. *Note 1:* A release to a U.S. person employed by or acting on behalf of a foreign person (see definition below) is also considered a deemed export to the home country of the foreign person. *Note 2:*

Release of any item to any party with knowledge a violation is about to occur is specifically prohibited.

- **Empowered Official** is defined in section 120.25 of the ITAR. The UAF Vice Chancellor for Research is an Empowered Official and can identify other senior administrators to act as empowered officials.
- **Export (includes deemed exports)** is specifically defined by the Directorate of Defense Trade Controls (U.S. Department of State) and the Bureau of Industry & Security (U.S. Department of Commerce) in the Code of Federal Regulations. In general an export is 1) an actual shipment, transfer, or transmission of items (including technology and software) out of the U.S. in any manner; 2) a transfer of items in the U.S. to an embassy or affiliate of a foreign country; or 3) a transfer to any person of items either within the U.S. or outside the U.S. with the knowledge or intent that the items will be shipped, transferred or transmitted out of the U.S. in any manner. For enforcement purposes, U.S. Customs defines the U.S. as the 50 states plus Puerto Rico.
- **Export Administration Act (EAA)** of 1979, as amended, 50 U.S.C. app. 2401 et seq. is the federal law regulating import and export of commercial and dual use items and associated technology.
- **Export Administration Regulations (EAR)** provided under 15 CFR are issued by the Bureau of Industry and Security, Department of Commerce, under laws relating to the control of certain exports, re-exports, and activities. The EAR are designed primarily to implement the EAA.
- **International Traffic in Arms Regulations (ITAR)** provided under 22 CFR are issued by the Secretary of State under delegated authority from the President by Executive Order 11958, as amended (42 FR 4311). The ITAR implement the Department of State's control of the import and export of defense articles as provided under the AECA.
- **Directorate of Defense Trade Controls** is the department within the U.S. Department of State that is charged with administration and enforcement of the International Traffic in Arms Regulations (ITAR).
- **Office of Foreign Assets Control (OFAC)** is the office within the U.S. Department of the Treasury that administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals.
- **Office of Research Integrity (ORI)** is the office responsible for ensuring compliance of University of Alaska Fairbanks personnel with internal policies and with local, state and federal regulations governing the conduct of research.
- **Principal Investigator (PI)** – eligibility to serve as a principal investigator is governed by UAF Policy #05-003.
- **Technology Control Plan (TCP)** is the University's established procedures for securing and protecting export controlled information, materials, software and technology as required by the National Industrial Security Program Operating Manual (10-509) and the International Traffic in Arms Regulations (126.13(c)).

Responsibilities:

Obligations of the Administration and University Members

All university faculty, staff, students, and affiliates (including non-UAF consultants, collaborators, etc.) engaging in activities involving export controlled information, materials, software, or technology shall:

1. notify the Office of Research Integrity (ORI) immediately when you are told that information, technical data, software, hardware or other material is or may be subject to export controls;

2. abide by the applicable U.S. export laws and regulations, as well as this policy (Note: Both the individual and the university can be subject to criminal and civil penalties for violation of U.S. export control regulations.);
3. have information, materials, software, or technology evaluated by the Office of Research Integrity (ORI) to determine what, if any, controls apply and what licenses are needed for the proposed activity;
4. be appropriately trained in the regulations, policies, procedures and processes as deemed necessary by the ORI; and
5. reply promptly to any request from the ORI or Vice Chancellor for Research for information related to export controlled information, materials, software, technology or activities.

Additional Obligations of Principal Investigators

The principal investigator of an activity involving export controlled information, materials, software, and technology shall;

1. submit a Technology Control Plan (TCP) to ORI for review;
2. receive written approval of your TCP from the ORI prior to accepting or disseminating export controlled information, materials, software, or technology;
3. submit and receive written authorization from ORI prior to allowing any new person(s) access to export controlled information, materials, software or technology;
4. notify the ORI immediately of any changes in citizenship status of personnel with access to export controlled information, materials, software or technology;
5. ensure the completion and correct filing of all export paperwork, including but not limited to, export license applications, Shipper's Export Declarations and advance (45 day) notification to BIS of any Schedule 1 chemical export (this is in addition to any licensing requirement); and
6. maintain all documents and records as required by university policies and procedures, state and federal laws and regulations.

Vice Chancellor for Research

For all activities involving export controlled information, materials, software, and technology the Vice Chancellor for Research shall:

1. ensure sufficient administrative oversight of export management at UAF;
2. serve as the institutional signature for formal communications, including but not limited to Registrations and Voluntary Disclosures, with the Directorate of Defense Trade Controls, Bureau of Industry & Security, and Office of Foreign Assets Control;
3. determine who may submit export license applications, commodity classification (EAR) or commodity jurisdiction requests (ITAR) on behalf of UAF;
4. have approval authority for the administrative procedures necessary to implement this policy; and
5. work with the ORI and OGCA to report any issues of noncompliance to the appropriate government regulatory and/or enforcement agencies.

Office of Research Integrity

For all activities involving export controlled information, materials, software, and technology the Office of Research Integrity shall:

1. serve as the primary resource for university members to obtain information about export control regulations, licensing processes, and the procedures and forms involved in the implementation of this policy;

2. develop administrative procedures and forms for the implementation of this policy;
3. review and approve, require modification in, or deny TCPs submitted by UAF faculty and staff;
4. whenever necessary, obtain records and other relevant information related to the use and distribution/dissemination of export controlled information;
5. coordinate export compliance and training activities on behalf of the Vice Chancellor for Research;
6. work with project or program leaders to determine the applicability of the EAR and ITAR and determine when an export license is required;
7. review all export license applications for completeness and appropriateness before submitting them to the Bureau of Industry & Security, Directorate of Defense Trade Controls, or Office of Foreign Asset Controls on behalf of the Vice Chancellor for Research;
8. conduct not-for-cause reviews of TCP implementation as part of the UAF Quality Improvement Program and work with UAF personnel to correct any identified issues;
9. conduct preliminary fact-finding in response to allegations of noncompliance and prepare a preliminary report for the Vice Chancellor for Research; and
10. suspend an activity in cases of known or reasonably suspected noncompliance, pending the outcome of a full review of the incident and, if appropriate, implementation of any UAF or regulatory agency requirements.

Non-Compliance:

Failure to comply with this policy or associated procedures may be grounds for disciplinary action by the university and, if applicable, suspension or termination of research or other activities, referral for misconduct proceedings, and reporting to state and federal agencies. Both the individual(s) and the university can be subject to criminal and civil penalties for violation of U.S. export control regulations. Costs (e.g. attorney fees, fines, and judgments) to the university associated with export violations shall be the responsibility of the sponsoring research, academic, or administrative unit. The Office of Research Integrity will notify the Vice Chancellor for Research and the supervisor of involved individuals of any non-compliant activities. Any disciplinary action taken by the university will follow the employment rules governing the individual's employment category.

Exclusions:

There are no exclusions to this policy.

Approved by:



Brian Rogers, UAF Chancellor



Date