Export Control – Frequently Asked Questions

1. **If a researcher has an award with no export control language and his/her funding agency begins providing export controlled documents, etc., what should the researcher do?**

   This action is a good indication that the direction of the research or some other factor has changed the project in some way to render the export control regulations applicable to this project and that, more than likely, the UTC researcher's work will now be export controlled. He/she should reexamine his/her research, checking the USML and CCL lists to see if the research falls under either of these lists. If he/she makes the determination that the research does now fall under export control restrictions, the information/ technology must be protected from intentional (or inadvertent) export or "deemed export." The researcher should also notify the Office of Research Integrity that the export control status has changed so this can be noted. The UT Export Control Policy requires that a Principal Investigator re-evaluate his/her project's export control determination prior to changes in scope of work or hiring foreign nationals to work on the project, including graduate and undergraduate students.

2. **How should a UTC employee handle the use of information gained from past or present research in classroom discussions if foreign nationals are present?**

   The UTC employee should first ascertain the source of the information and if the contract or grant under which it was discovered, invented or obtained is under export control restrictions. Lack of contractual designation of "export controlled" is not an exclusively sufficient determination. The employee should also make self-determination of the applicability of export control regulations to the particular information or technology he/she wishes to discuss in the classroom. If this information or technology is now considered export controlled, it should not be presented in the classroom.

3. **What is our guidance for determining if non-sponsored program activity should be export controlled?**

   A UTC employee should check the Department of State's U.S. Munitions List and the Department of Commerce's Commerce Control List to ascertain if the information or technology falls under the information or technology areas covered by the lists. As this research would not be under a sponsored program, the fundamental research exemption would not apply.

4. **Are individuals with dual citizenship (one of which is U.S.) allowed unlicensed access to export controlled information?**

   We have been told that some funding agencies regard the non-U.S. citizenship as the primary citizenship status. If there is any doubt, check with your funding agency and with UTC's Office of Research Integrity.

5. **I teach a class which involves information about encryption using standard published textbooks. Do I have a problem if foreign nationals are in my class?**

   If you are providing information which is already in the public domain (e.g., published text books, excerpts from professional journals, newspaper articles, etc.), it is acceptable to present this information in a class.

6. **We send documents to Quick Copy for reproduction and I believe foreign nationals might work there. Can we send documents that contain export controlled information?**

   No, this would be a "deemed export" and would violate the export control regulations.

7. **What are the practices that I should employ for protecting the export controlled information?**

- Laboratory work should be physically shielded from observation by operating in secured laboratory spaces or during secure time blocks when observation by unauthorized persons is preventable.
- Data, lab notebooks, hard copy reports, and research materials are held in locked, fireproof cabinets which are located in rooms with key-controlled access.
- Electronic communications and all databases are managed via a type of virtual private network specifically a Secure Socket layer (SSL) which limits access to authorized users only and facilitates exchanges between those authorized users while encrypting (128 bit encryption) any data sent via Internet.
- Discussions about the project or work products are limited to the identified contributing investigators and are held only in areas where unauthorized persons are not present.
- Discussions with third-party subcontractors, such as identified manufacturing sites, are only conducted under signed confidentiality agreements and fully respecting the non-US citizen limitations for such disclosures.
- Third-party communications are conducted only under valid Confidentiality Agreements with prior consent of the Government.

8. What are my responsibilities as a Principal Investigator/researcher/faculty member and what are the responsibilities of the Office of Research Integrity in complying with export control laws and regulations?

   Principal Investigator/researcher/faculty:

- As a Principal Investigator, researcher or faculty member you are responsible for determining if the research you are performing, the information you are developing, receiving or disseminating, or the technology you are developing, receiving or disseminating is restricted by export control laws and regulations.
- If it is restricted, you have the responsibility of protecting the information or technology from export or deemed export, either intentionally or inadvertently.

- You have the responsibility of informing graduate students, undergraduate students, and administrative staff who are likely to come into contact with this information or technology of the proper protection regulations and procedure.
- You have the responsibility to periodically review your research to ascertain if its status relative to export control regulations has changed.
- You have the responsibility to inform the Office of Research Integrity when the export control status of your research changes.
- You have the responsibility to report to the Office of Research Integrity any violations of export control laws and regulations of which you might become aware.

9. Some of this information is vague and seems to change a lot. How am I supposed to keep up with all of this?

This law and its supporting regulations are quite complicated and the international political, military and economic situation changes daily. This is, in turn, reflected in the information and technology which is placed on the controlled lists as well as the various funding agencies' procedures in addressing the export control issue. Our best advice is to revisit your information and technology periodically relative to the government's controlled lists, keep an open dialogue with your funding agency technical counterpart, and bring your questions and concerns to the Office of Research Integrity.

10. My award has no restriction on foreign nationals working on it and no publication restrictions except the funding agency wants to review a publication prior to distribution. Does this cancel my fundamental research exemption?

No, this kind of review, even when requested, is considered a courtesy rather than a restriction. If the award required "review and approval" we would consider it a restriction as this language implies the potential of denying approval to publish or requiring changes to the report, presentation or article prior to publication. A publication approval requirement would cancel your fundamental research exemption.

11. I download software that I use in my classes and usually just click "yes" without reading the license agreement. I've heard that some of these licenses have export control restrictions. What should I do?

First, read all license agreements because clicking "yes" is agreeing to the conditions of the agreement. Second, notice if there are options concerning the type of software you can download. Most license agreements do contain some export control language. In many instances, there is an "educational" version of the software which does not contain export controlled information and is suitable for classroom use.