Export Control Frequently Asked Questions

What are exports?
Exports are any items (e.g. commodities, software, technology) sent from the U.S. to a foreign destination. Exports also include the release or sharing of restricted technology or data (orally, visually or in writing) with foreign nationals inside or outside the U.S. – these are called “deemed” exports.

What are export controls?
Export controls are federal laws that regulate the export of sensitive technologies, equipment, software, biological agents and related data and services. These laws require that licenses be obtained for exports, including “deemed” exports, of these sensitive items (e.g. defense articles, items with potential military applications, select agents) unless an exemption exists. As a result, unless an exclusion or exception is available, the University is required to obtain prior governmental approval in the form of an export license before allowing participation of foreign national faculty, staff or students in the regulated research. When these sensitive technologies are present a deemed export can occur with: Tours of laboratories (especially by foreign scholars),

Acronyms related to export controls:
ITAR – International Traffic in Arms Regulations
BIS – Bureau of Industry and Security
EAR – Export Administration Regulations
OFAC – Office of Foreign Assets Control
TCP – Technology Control Plan
involvement of foreign researchers or foreign students in the research, oral exchanges, emails or visual inspection and hosting a foreign researcher.

**I only teach and do research. Why should I have to worry about export regulations?**
The extent to which you need to be concerned about – and informed about – export control regulations (including OFAC regulations) varies greatly depending on your field, on your involvement with non-U.S. students, post-docs and collaborators and on your foreign travel.

The main areas of concern are research and educational materials that have either a unique military application or a dual use (civilian and military) application. If you conduct research or include classroom information of this type, you need to have a good understanding of export controls.

Regardless of your field of teaching and research, another area of concern is OFAC embargoed countries. For example, even professors who have no connection whatsoever to military work – an English professor or historian, for example, need to comply with OFAC regulations if they travel to an OFAC embargoed country such as Cuba. If you travel to an OFAC embargoed country either to teach or to conduct research, if you host researchers or students from OFAC embargoed countries or if you have collaborators in OFAC embargoed countries, you need to understand how OFAC regulations may affect your work.

**Who are foreign nationals and foreign entities?**
The term “foreign nationals” refers to anyone other than a U.S. citizen, a permanent resident alien and certain “protected individuals” (refugees and those with asylum); it includes any company not incorporated in the U.S.

**How do these laws apply to research and teaching at UNR?**
These laws apply to all research activities whether or not there is a specific citation to the regulations in the grant or contract governing the project. Work in the following areas is considered high risk: engineering, space sciences, computer science, research with encrypted software, and research with controlled chemicals, biological agents and toxins. However, the National Security Decision Directive (NSDD) 189, issued in 1985, states that fundamental research is not subject to the license requirements of export control regulations. Fundamental research is basic or applied research in science or engineering at an accredited institution of higher learning in the U.S. where the resulting information is not restricted in the form or content of its release to the public and is ordinarily published and shared broadly in the scientific community. Fundamental research exclusion applies to information, technology and, in some cases, software associated with the research. It does not apply to export controlled equipment, items, services or encryption software that may be exported outside of the U.S..

Teaching activities are excluded through the educational instruction exclusion. Export control regulations do not apply to information released in academic catalog-listed courses or in teaching labs associated with those courses. This exclusion is based on the recognition in ITAR that
“information concerning general scientific, mathematical or engineering principles commonly taught in schools, colleges and universities or information in the public domain” should not be subject to export control restrictions.

As a public university, the University of Nevada, Reno (UNR) is committed to the widest possible public dissemination of scientific learning and research results. Therefore, most information and data to be created or used at UNR will likely fall under the definition of fundamental research as set forth in NSDD 189 or as the educational instruction exclusion.

What is “Technology” or “Technical Data”?
These phrases refer to technical information beyond general and basic marketing materials about a controlled commodity. They do not refer to the controlled equipment/commodity itself or to the type of information contained in publicly available user manuals. Technology or Technical Data terms mean specific information necessary for the development, production or use of a commodity and usually takes the form of blueprints, drawings, photographs, plans, diagrams, models, formulae, tables, engineering specifications and documentation. The “deemed export” rules apply to the transfer of such technical information to foreign nationals.

What actions could destroy the Fundamental Research Exemption or the Educational Instruction Exclusion?
University research will not be deemed to qualify as fundamental research or educational use exclusion for the following:

- The university accepts any restrictions on the publication of the information resulting from the research.
- Research is federally funded and specific access and dissemination controls regarding the resulting information have been accepted by the university or the researcher.
- The instructor teaches export controlled information not listed in the course catalog or information that will not be available through the public domain.

How does the Fundamental Research Exclusion relate to trade sanctions?
Trade sanctions against hostile targets, including countries, may prohibit travel, payment or providing anything of value to the sanctioned country regardless of the fundamental research exemption. Current listings of the targets affected by these regulations are maintained by the U.S. Office of Foreign Assets Control (OFAC). Please contact UNR Regulatory Compliance Program Manager, Michele Dondanville, with any questions about how these sanctions apply to your activity.

What is a Technology Control Plan (TCP)
A TCP is a project-specific plan that outlines the procedures to secure controlled technology (e.g., technical information, data materials, software or hardware) from use and observation by unlicensed foreign nationals or foreign entities. This is signed off by the principal investigator (PI) and the department chair.

Why is it important to be aware of these laws?
The PI needs to read the University’s Export Control Policy and have a fundamental understanding of the subject in order to raise questions and alert University officials to a possible
export controls issue. Violations of trade sanctions and export controls can result in criminal penalties:

- Individual and/or institutional fines (up to $1 million per violation).
- Individual incarceration (up to 10 years per violation).

**Does a sponsoring agency have the authority to waive export control requirements?**

No. Waivers to export control requirements are provided in the regulations as either “exemptions” (ITAR) or “exceptions (EAR), but they must be authorized by either the Department of State (for ITAR) or the Department of Commerce (for EAR). No other federal agencies have the authority to waive the export control regulations on behalf of State or Commerce.

**What should I know about export controls when I am traveling outside the U.S.?**

a. **Restrictions on what can be taken:**

   When you leave the country, everything you take is an export including devices, software and data. Please review the [International Traveler Letter](#).

   Remember that destination countries have their own import and export controls (see Travel.State.Gov) which may affect how you can use items while there and which could restrict your ability to take them out of the destination country. You should be familiar with any that apply to you.

b. **Restrictions on where you can go:**

   Check the U.S. Department of the Treasury, Office of Foreign Assets Control website for a [list of embargoed countries](#).

**What other considerations should UNR employees be aware of when transferring or transporting research materials, software or data?**

1. Not all research material may be shipped or hand-carried by air.
2. A Material Transfer Agreement (MTA) should be used when UNR research materials, software, biological materials or data sets are received from an outside party or transferred off campus to another party.
3. All transfers of research materials, software or data must comply with export control and trade sanction regulations.
4. Commercial shipment of hazardous materials must comply with U.S. Department of Transportation regulations.
5. UNR provides compliance assistance through many administrative offices to facilitate your transfer and transport of research materials, software and data.

**Who at UNR should I Contact with Questions?**

- **Export Control & Trade Sanctions** (general information and international travel): Michele Dondanville, mdondanville@unr.edu or (775) 784-6360. Web: [http://www.unr.edu/sponsored-projects/us-export-control](http://www.unr.edu/sponsored-projects/us-export-control).
• *Environmental Health and Safety (Office of Radiation, Chemical, and Biological Safety): Chad Leonard, cleonard@unr.edu or (775) 682-6459. Web: http://www.unr.edu/ehs.*

• *Purchasing (receiving and shipping): Kathy Schultz, kschultz@unr.edu or (775) 784-1644. Web: http://www.bcn-nshe.org/purchasing/*.

• *UNR Technologies (all Material Transfer Agreement concerns): April Sferrazzo, asferrazzo@unr.edu or (775) 784-7722. Web: http://tto.unr.edu.*