

**Export Control**

**Compliance Manual**

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Introduction and Leadership Commitment

Export controls are a series of U.S. laws and regulations that are designed to protect U.S. national security, prevent the proliferation of weapons of mass destruction, further U.S. foreign policy (including the support of international agreements, human rights and regional stability), and to maintain U.S. economic competitiveness. Export control regulations govern how certain data, materials, and equipment can be shared with foreign nationals, both by taking or sending outside of U.S. borders and by sharing with foreign nationals present in the U.S.

As we seek to expand the scope and impact of our research and educational work, Lehigh University is committed to complying with U.S. laws, regulations, and treaties governing export controls. Equally, Lehigh is committed to the pursuit and sharing of knowledge, the principles of academic freedom, and supporting its vibrant international community of scholars. Lehigh has adopted this Export Control Compliance Manual (ECM or Manual) to support implementation of its Export Control Policy and to ensure fulfillment of both of these commitments.

Lehigh’s office of Research Integrity takes the lead in implementation of export controls, and its Director serves as Lehigh’s Export Control Officer (ECO). Implementation of export controls, however, involves multiple offices and processes that are part of Lehigh’s daily operations, requiring coordinated and informed communication among central offices, academic units, and individual members of the faculty and staff. This Manual assists researchers and administrators in maintaining compliance with export controls requirements by (1) identifying impacted policies and procedures, and (2) establishing roles and responsibilities related to export control compliance.

Export control laws are complex and individual cases may require review and consultation beyond what is provided here. Questions should be directed to the ECO. Contact the ECO with any questions at [inexport@lehigh.edu](mailto:inexport@lehigh.edu). Please contact the ECO or your academic unit leadership with any questions, or if you expect to be involved with any export control issues.

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| --- | --- | --- |
| Nathan Urban, Ph.D.  Provost and Senior Vice President for Academic Affairs  [provost@lehigh.edu](mailto:provost@lehigh.edu)  610-758-3605 | Anand Jagota, Ph.D.  Vice President and Associate Provost for Research  [vpresearch@lehigh.edu](mailto:vpresearch@lehigh.edu)  610-758-5212 | Naomi Coll, MPH, CPH, CIP  Director of Research Policy and Compliance and Export Control Officer  [nac314@lehigh.edu](mailto:nac314@lehigh.edu)  610-758-2985 |

List of Abbreviations

Key abbreviations used throughout this Manual are below. Italicized listings are Lehigh-specific abbreviations; un-italicized listings are U.S. government abbreviations.

|  |  |
| --- | --- |
| **Abbreviation** | **Term** |
| BIS | Department of Commerce Bureau of Industry and Security |
| CUI | Controlled Unclassified Information |
| CCL | Commerce Control List |
| CJ | Commodity Jurisdiction |
| DDTC | Department of State Directorate of Defense Trade Controls |
| EAR | Export Administration Regulations |
| FRE | Fundamental Research Exclusion |
| ECCN | Export Control Classification Number |
| *ECO* | *Export Control Officer* |
| *GPSI* | *Global Programs and Strategic Initiatives* |
| *HR* | *Human Resources* |
| *ITAC* | *International Travel Advisory Committee* |
| ITAR | International Traffic in Arms Regulations |
| *LIRA* | *Lehigh Integrated Research Administration* |
| *LTS* | *Library & Technology Services* |
| MTA | Material Transfer Agreement |
| NDA | Non-Disclosure Agreement |
| OFAC | Department of the Treasury Office of Foreign Assets Control |
| *OGC* | *Office of the General Counsel* |
| *OIA* | *Office of International Affairs* |
| *OISS* | *Office of International Students and Scholars* |
| *ORSP* | *Office of Research and Sponsored Programs* |
| *OTT* | *Office of Technology Transfer* |
| *Provost’s Office* | *Office of the Provost and Senior Vice President for Academic Affairs* |
| RPS | Restricted Party Screening |
| TAA | Technical Assistance Agreement |
| TCP | Technology Control Plan |
| USML | United States Munitions List |

Glossary

Key terms and definitions used throughout this Manual are below.

|  |  |
| --- | --- |
| **Abbreviation** | **Term** |
| Controlled Unclassified Information (CUI) | Information created or owned by the U.S. government that requires safeguarding or dissemination controls consistent with applicable law, regulation, and government-wide policies.  *See* 32 C.F.R. § 2002.2 |
| Commerce Control List (CCL) | The list of export restrictions maintained by the Department of Commerce governing Dual-Use items. A list of CCL Categories and Groups is provided [here](#bookmark=id.kgcv8k). |
| Commodity Jurisdiction (CJ) | The mechanism used to request a determination as to whether an item or service is subject to the export licensing authority of the Department of Commerce (CCL / ECCN) or the Department of State (USML / ITAR). |
| Controlled Information | Information regarding Controlled Physical Items, including information required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance, or modification of Controlled Physical Items.  Controlled Information may be Released through visual inspection, oral exchanges, or the application of personal knowledge or technical experience with Controlled Physical Items. This includes information in the form of blueprints, drawings, photographs, plans, instructions and documentation. Also included in this definition are non-physical items listed under EAR and ITAR, such as software and algorithms.  *See* 15 C.F.R. § 730-744 and 22 C.F.R. § 120-130. |
| Controlled Physical Items | Dual-Use technologies listed under the EAR and Defense Articles listed on the USML.  *See* 15 C.F.R. § 730-774 and 22 C.F.R. § 120-130. |
| Deemed Export | Under EAR, any Release in the U.S. of Technology to a Foreign Person is “deemed” to be an Export to the Foreign National’s most recent country of citizenship or permanent residency.  Under ITAR, any Release in the U.S. of Technical Data to a Foreign Person is “deemed” to be an Export to all countries in which the Foreign Person has held or holds citizenship or holds permanent residency.  For both EAR and ITAR, an export is not considered “deemed” if made to U.S. citizens with dual citizenship or U.S. Green Card holders.  *See* 15 C.F.R. § 734.13 and 22 C.F.R. § 120.17 |
| Defense Article | Any item or Technical Data designed on the USML, including Technical Data recorded or stored in any physical form, models, mockups or other items that reveal Technical Data directly related to items designated on the USML.  This does not include basic marketing information on function or purpose or general system descriptions.  *See* 22 C.F.R. § 121.1 |
| Defense Service | Furnishing assistance, including training, to Foreign Persons, whether in the U.S. or abroad, in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing, or use of Defense Articles; and  Furnishing any Technical Data to Foreign Persons, whether in the U.S. or abroad; or  Military training of foreign units and forces, regular and irregular, including formal or informal instruction of Foreign Persons in the U.S. or abroad by correspondence courses, technical, educational, or information publications and media of all kinds, training aids, orientation, training exercises, or military advice.  *See* 22 C.F.R. § 124.1 |
| Dual-Use | Items that have civil applications as well as terrorism and military or weapons of mass destruction-related applications.  *See* 15 C.F.R. § 730.3 |
| Encryption Software | Computer programs that provide capability of encryption functions or confidentiality of information or information systems. Such software includes source code, object code, applications software, or system software.  Note that the definition of Encryption Software includes object code and applications software, where the definition of Export otherwise excludes object code. This means that Encryption Software object code is subject to export control, where non-Encryption Software object code is generally not subject to export control.  *See* 15 C.F.R. § 772 |
| End-User | The person abroad that receives and ultimately uses the Export or Re-Export items.  *See* 15 C.F.R. § 772.1 |
| Export | Actual shipment or transmission out of the U.S., including sending or taking of an item out of the U.S. in any manner;  Any Release or otherwise transferring Technology or Source Code (but not object code) to a Foreign Person in the U.S. (*see* Deemed Export); or  Certain transfers of spacecraft subject to the EAR.  *See* 15 C.F.R. § 734.13 |
| Export Control Classification Number (ECCN) | The five-character alpha-numeric classification used to identify items on the CCL. |
| Foreign Person(s) | Any individual, regardless of employment status, in the U.S. in non-immigrant status, including visa holders (e.g., H-1B, H-3, L-1, J-1, F-1, B-1, O-1, etc.) and individuals unlawfully in the U.S. This does not include a U.S. citizen, including dual citizens, a lawful permanent resident of the U.S. (i.e., Green Card holders), and certain refugees and asylees.  For the purposes of this Manual, a Foreign Person is also any corporation, business association, partnership, society, or other entity that is not incorporated in the U.S., and non-U.S. government entities.  *See* 15 C.F.R. § 772.1 and 22 C.F.R. § 120.16 |
| Fundamental Research | Fundamental Research means research in science, engineering, or mathematics, the results of which ordinarily are published and shared broadly within the research community, and for which the researchers have not accepted restrictions for proprietary or national security reasons, such as restrictions on publications or on foreign national participation in research (note that temporary publication delays to ensure publications will not compromise patent rights are not considered publication restrictions).  Fundamental Research includes research that is intended for publication, regardless of whether it is accepted by scientific journals.  Discussion of the Fundamental Research Exclusion (FRE) is found [here](#bookmark=id.2iq8gzs). |
| Re-Export | Any Export that is subsequently transferred to a new or different End User, for a different end use, or to a different destination.  *See* 15 C.F.R. § 734.14 |
| Release | Providing information about Technology, Source Code, or Technical Data by visual or other inspection by a Foreign Person of items that reveals Technology, Source Code, Encryption Software, or Technical Data; or  Oral or written exchanges with a Foreign Person of Technology, Source Code, or Technical Data in the U.S. or abroad; or  The use of access information to cause or enable a Foreign Person to access, view, or possess unencrypted Technical Data; or  The use of access information to cause Technical Data outside of the U.S. to be in unencrypted form.  *See* 15 C.F.R. § 734.15 and 22 C.F.R. § 120.50 |
| Source Code | A convenient expression of one or more processes that may be turned by a programming system into equipment executable form, such as object code.  Generally, Source Code is understood to mean programming statements that are created by a programmer using a human-readable programming language with a text editor or a visual programming tool and then saved in a file which is later processed to run. Object code generally refers to the output, and the object code file contains a sequence of machine-readable instructions that is processed by the operating environment (runtime) on a computer. Operating system or application software is often in the form of compiled object code.  *See* 15 C.F.R. § 772 |
| Specially Designated Nationals | Individuals and companies owned or controlled by, or acting for or on behalf of, targeted countries. It also lists individuals, groups, and entities, such as terrorists and narcotics traffickers designated under programs that are not country-specific. |
| Technology | Information necessary for the development, production, Use, operation, installation, maintenance, repair, overhaul, or refurbishing of an item. This includes tangible and intangible forms, such as written or oral communications, blueprints, drawings, photographs, plans, diagrams, models, formulae, tables, engineering designs and specifications, computer-aided design files, manuals or documentation, electronic media, or information revealed through visual inspection. This does not include information contained in publicly available user manuals.  The modification of the design of an existing item creates a new item and technology for the modified design is Technology for the development or production of the new item.  *See* 15 C.F.R. § 772 |
| Technical Assistance | Instruction, skills training, working knowledge, or consulting services.  *See* 22 C.F.R. § 120.22 |
| Technical Assistance Agreement | An agreement for the performance of ITAR-controlled Defense Services or ITAR-controlled Technical Data.  *See* 22 C.F.R. § 120.22 |
| Technology Control Plan | An internal document that establishes controls to prevent unauthorized Release of Controlled Physical Items, Controlled Information, or Technical Data. |
| Technical Data | Information (other than software directly related to a Defense Article) which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance, or modification of Defense Articles. This includes information in the form of blueprints, drawings, photographs, plans, instructions, or documentation;  Classified information relating to Defense Articles and Defense Services and 600-series items controlled by the CCL;  Information covered by an invention secrecy order; or  Software directly related to Defense Articles.  This does not include information concerning general scientific, mathematical, or engineering principles commonly taught in schools, colleges, and universities, or information in the public domain, or basic marketing information on function or purpose or general system descriptions of Defense Articles.  *See* 22 C.F.R. § 120.10 |
| United States Munitions List (USML) | The list of export restrictions maintained by the Department of State governing Defense Articles and Defense Service. A list of USML Categories is provided [here](#bookmark=id.3q5sasy). |
| Use | Operation, installation (including on-site installation), maintenance (checking), repair, overhaul, and refurbishing.  Note that this definition only applies to Use of EAR-controlled items, excluding the 600 series (see Technical Data).  *See* 15 C.F.R. § 772 |

Export Control Laws and Regulations

Regulatory Framework

Office of Foreign Assets Control (OFAC)

The Department of the Treasury’s Office of Foreign Assets Control (OFAC) enforces economic and trade sanctions to achieve U.S. national security and foreign policy goals against specific foreign countries, regimes, terrorists, international narcotics traffickers, proliferation of weapons of mass destruction, and other threats. This means that Lehigh is restricted from providing items of value to any embargoed or sanctioned person or entity without an OFAC license. Items of value are not limited to financial compensation or remuneration; it could include uncompensated educational or research activity.

OFAC maintains a list of embargoed and/or sanctioned programs and countries [here](https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information). OFAC also maintains a list of Specially Designated Nationals [here](https://sanctionssearch.ofac.treas.gov/). This list includes individuals and companies owned or controlled by, or acting for or on behalf of, targeted countries. It also lists individuals, groups, and entities, such as terrorists and narcotics traffickers designated under programs that are not country-specific.

Prohibited transactions are trade or financial transactions and other dealings in which U.S. persons may not engage unless authorized by OFAC or expressly exempted by statute. Because each sanction is based on different foreign policy and national or international security goals, prohibitions may vary between programs.

International Traffic in Arms Regulations (ITAR)

The Department of State, through the Directorate of Defense Trade Controls (DDTC), administers the International Traffic in Arms Regulations (ITAR), which regulate items and information inherently military in design, purpose, or use (Defense Articles). ITAR categorizes Defense Articles using the U.S. Munitions List (USML), which includes related Technical Data that is recorded or stored in any physical form, models, mockups, or other items that reveal technical data directly relating to items designated in the USML.

The USML is divided into 22 categories of Defense Articles identified in the table below. View detailed descriptions of ITAR-controlled items through the USML as published at [22 C.F.R. § 121](https://www.ecfr.gov/current/title-22/chapter-I/subchapter-M/part-121/subject-group-ECFR6cf5c989d9a8d36/section-121.1).

Unless a specific exclusion or exemption applies, licenses are required to Export a USML-controlled item. An Export under ITAR means:

* Sending or taking of a defense article out of the U.S. in any manner, whether via shipment or hand-carry.
* Disclosing or transferring technical data to a Foreign Person, whether in the U.S. or abroad (a Deemed Export).
* Performing a Defense Service on behalf of, or for the benefit of, a Foreign Person, whether in the U.S. or abroad (e.g., supporting the design or development of a Defense Article, providing training to a foreign military unit, etc.). Defense Services are defined broadly and includes information in the public domain, including results from Fundamental Research, if used to provide training or aid to a foreign military.

Commercially available items and most Technical Data or novel Technology can be self-classified using the USML. If it is unclear whether an item is subject to ITAR, Lehigh will submit a Commodity Jurisdiction (CJ) request to the DDTC.

|  |  |
| --- | --- |
| **Category** | **Description** |
| I | Firearms, Close Assault Weapons, and Combat Shotguns |
| II | Guns and Armament |
| III | Ammunition / Ordinance |
| IV | Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs, and Mines |
| V | Explosives and Energetic Materials, Propellants, Incendiary Agents, and Their Constituents |
| VI | Vessels of War and Special Naval Equipment |
| VII | Tanks and Military Vehicles |
| VIII | Aircraft and Associated Equipment |
| IX | Military Training Equipment and Training |
| X | Protective Personnel Equipment and Shelters |
| XI | Military Electronics |
| XII | Fire Control, Range Finder, Optical and Guidance and Control Equipment |
| XIII | Auxiliary Military Equipment |
| XIV | Toxicological Agents, Including Chemical Agents, Biological Agents, and Associated Equipment |
| XV | Spacecraft Systems and Associated Equipment |
| XVI | Nuclear Weapons, Design and Testing Related Items |
| XVII | Classified Articles, Technical Data, and Defense Services Not Otherwise Enumerated |
| XVIII | Directed Energy Weapons |
| XIX | [Reserved] |
| XX | Submersible Vessels, Oceanographic and Associated Equipment |
| XXI | Miscellaneous Articles |

Export Administration Regulations (EAR)

The Department of Commerce, through the Bureau of Industry and Security (BIS), administers the Export Administration Regulations (EAR), which regulates the export of commercial and Dual-Use items. Dual-Use items are goods and related Technology, including Technical Data and Technical Assistance, that are designed for commercial purposes but could also have military applications. EAR categorizes commercial and Dual-Use items using the Commerce Control List (CCL); the five digit alpha-numeric code that describes the item and its licensing requirements is the item’s Export Control Classification Number (ECCN).

The CCL is divided into 10 categories and 5 product groups identified in the table below. The CCL also includes a catchall category, EAR99, which covers items controlled by EAR but not specifically listed in the CCL. View detailed descriptions of EAR-controlled items through the CCL as published by [BIS](https://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear) and in various Federal Register publications.

Almost every item manufactured in the U.S. is controlled by the CCL. However, in contrast to the USML, very few items controlled by the CCL require an Export license. Licenses may be required based on embargoes, sanctions, the End-User, and end use. An Export under EAR means:

* A shipment or transmission of items subject to the EAR out of the U.S.
* The Release of Technology, Source Code, or Encryption Software to the EAR in a foreign country or to a Foreign Person abroad.
* The Release of Technology or Source Code to a foreign national in the U.S. (a Deemed Export), including through demonstration, oral briefing, site visit, or transmission of non-public data.
* The shipment or transmission of items subject to EAR from one foreign country to another foreign country, such as when a Lehigh exporter sends EAR-controlled technology to one foreign country, and that recipient sends the technology to another foreign country (a Re-Export).
* The Release of Technology, Source Code, or Encryption Software to a Foreign Person of a country other than the country where the Release or transfer takes place (a Deemed Re-Export), such as when a Lehigh exporter sends EAR-controlled technology to one foreign country, and that recipient provides access to a national of a different country.

Commercially available items and most Technical Data or novel Technology can be self-classified using the CCL. If the item classification is unclear, Lehigh will submit a classification request to BIS.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **CCL Category** |  |  | **Product Group** |
| 0 | Nuclear Materials, Facilities and Equipment (and Miscellaneous Items) |  | A | End Items, Equipment, Accessories, Attachments, Parts, Components, and Systems |
| 1 | Materials, Chemicals, Microorganisms and Toxins |  | B | Test, Inspection and Production Equipment |
| 2 | Materials Processing |  | C | Materials |
| 3 | Electronics |  | D | Software |
| 4 | Computers |  | E | Technology |
| 5 | Part 1 – Telecommunications and  Part 2 – Information Security |  |  |  |
| 6 | Sensors and Lasers |  |  |  |
| 7 | Navigation and Avionics |  |  |  |
| 8 | Marine |  |  |  |
| 9 | Aerospace and Propulsion |  |  |  |

Deemed Exports

As discussed in the ITAR and EAR above, a Deemed Export occurs when a Foreign Person receives access to Technical Data, certain services are provided to Foreign Persons, or Foreign Persons gain access to Controlled Physical Items or Controlled Information. Under both ITAR and EAR, a Foreign Person does not include U.S. dual citizens or lawful permanent residents of the U.S. (i.e., Green Card holders), and other narrow categories (e.g., certain refugees and asylees, etc.).

A license may be required to Release Controlled Information or Technical Data to a Foreign Person in the U.S., or to allow a Foreign Person to Use Controlled Physical Items, including Lehigh employees holding visas regardless of whether Lehigh sponsors the visa. Examples of scenarios potentially requiring a license include instances where the Foreign Person will Use Controlled Physical Items, will work on an export controlled research project, or access Controlled Information or Technical Data.

Should information about an individual’s citizenship be necessary to confirm export control obligations, contact the ECO or HR.

Exclusions and Exemptions

There are three major exclusions and exemptions to export control laws and regulations. Lehigh actively works to assert exemptions and exclusions for its scholarly activity whenever possible through the procedures outlined in this Manual.

Fundamental Research Exclusion

Most research at Lehigh falls under the Fundamental Research Exclusion (FRE) to export control laws.

Fundamental Research means research in science, engineering, or mathematics, the results of which ordinarily are published and shared broadly within the research community, and for which the researchers have not accepted restrictions for proprietary or national security reasons, such as restrictions on publications or on foreign national participation in research (note that temporary publication delays to ensure publications will not compromise patent rights are not considered publication restrictions). If these conditions are met, the research is exempt from export control laws under the FRE.

Note that the FRE does not apply to use of Controlled Physical Items, Controlled Information, Source Code, Encryption Software, or Technical Data, even if being used in research that is exempt under the FRE. For example, if a research team is conducting Fundamental Research using a Controlled Physical Item, export control restrictions are still in effect for the Controlled Physical Item even though the research itself is considered exempt under the FRE. Please see the Research Administration section later in this manual for more information on the FRE and when it is breached.

Publicly Available Information

Information is considered publicly available when it is accessible to the public without restrictions on its further dissemination. Examples of publicly available information includes, but is not limited to:

* Books, periodicals, electronic media, public websites, or other public media sources.
* Information submitted to journals for consideration with the intent that it be made publicly available, regardless of whether the publication is accepted by the journal.
* Information readily available in libraries, including university libraries.
* Patents and published patent applications.
* Information released at conferences that are open to the participation of all interested persons.
* Software that is made available to the public without restrictions on its further dissemination, either for free or at the cost of distribution. This does not apply to strong encryption software, regardless of general availability.

Educational Information Exclusion

Virtually all didactic course instruction at Lehigh falls under the Educational Information Exclusion unless such activity constitutes a Defense Service, such as providing training to a member of a foreign military. Activity in research labs should be reviewed for export control impact as outlined in the Export Control Indicators section below.

Educational information means information that is released as part of instruction during a course listed in the University’s course catalog or associated teaching laboratory. Enrollment should be open to any qualified student at Lehigh.

Export Control Indicators

The following is a list of activities that indicate an export control review should be conducted by the ECO. This is not an inclusive list; export control regulations are fact-specific, and all Lehigh personnel are encouraged to contact the ECO if there is a possibility that any research, equipment, software, or data may be controlled.

* The results of research conducted at Lehigh or by Lehigh employees are intended for military, nuclear, or space purposes, or for other restricted end uses or End Users.
* Lehigh personnel are providing any form of support or training to a foreign military.
* Research sponsors require pre-approval for publications or pre-approval for participation of Foreign Persons.
* Software that includes encryption features is being purchased.
* Foreign Persons request access to Controlled Physical Items at Lehigh.
* Lehigh personnel [travel abroad](https://research.cc.lehigh.edu/information-international-travelers) with research equipment, chemicals, biological materials, encrypted software, or other Controlled Physical Items; or with laptops, cell phones, tablets, portable devices, or other electronic devices containing Source Code, Encryption Software, Controlled Information, or Technical Data.
* Items will be [shipped internationally](https://research.cc.lehigh.edu/sites/research.cc.lehigh.edu/files/documents/ORI/International%20Shipment%20Assessment%2024-Aug-2022.pdf), including equipment, chemicals, or biological materials.
* Data will be transferred internationally.
* A proposed activity will involve embargoed countries or entities, individuals or entities located in embargoed countries, or who are on prohibited or restricted End User lists.

Governance and Organizational Structure

Export Control Program Administration

Empowered Official

Lehigh has designated the Vice President and Associate Provost for Research and Graduate Studies (VPR) as its Empowered Official. As the Empowered Official, the VPR is responsible for signing export control license applications or other requests for approval on Lehigh’s behalf and has authority to inquire into any export control transaction. The VPR is the executive sponsor of, and holds overall responsibility for, Lehigh’s export control compliance program.

Export Control Officer

The VPR has designated the Director of Research Policy and Compliance as Lehigh’s Export Control Officer (ECO). The ECO is responsible for implementing Lehigh’s export control compliance program and its daily operations, including:

* Reviewing transactions submitted by operational and academic units, including those transactions identified below.
* Documenting when the Fundamental Research Exclusion (FRE) applies.
* Supporting researchers with developing [Technology Control Plans](https://research.cc.lehigh.edu/sites/research.cc.lehigh.edu/files/documents/ORI/SOP%20Developing%20a%20Technology%20Control%20Plan%2018-Aug-2022.pdf).
* Conducting export control training.
* Conducting risk assessments and performing monitoring activities.
* Supporting management of any necessary corrective actions.
* Monitoring the regulatory and enforcement environment and taking action to update Lehigh’s policies, procedures, and training.
* Maintaining this Manual and reviewing impacted policies and procedures.

Administrative Offices with Operational Responsibility for Export Control Compliance

All Lehigh personnel are responsible for understanding and complying with export control laws, regulations, and Lehigh policy. Key offices that administer impacted policies and procedures are identified below.

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| **Office** | **High-Level Scope and Responsibility Relevant to Export Controls** |
| Office of Research and Sponsored Projects (ORSP) | ORSP is responsible for reviewing and submitting to extramural funding opportunities, negotiating and accepting sponsored awards, and issuing subawards and subcontracts.  ORSP’s role in export control compliance includes:   * Reviewing proposals and solicitations for potential export implications. * Reviewing awards and contracts for potential escalation to the ECO. * In partnership with the ECO, identifying export controlled projects and initiating the Export Control Compliance Review of Sponsored Programs Personnel process for project personnel, as necessary. * Flagging awards and contracts with export control restrictions in Banner. |
| Office of Technology Transfer (OTT) | OTT is responsible for negotiating MTAs and intellectual property (IP) related agreements, including NDAs and licensing agreements.  OTT’s role in export control compliance includes:   * Reviewing MTAs and various IP agreements for potential escalation to the ECO. * Conducting RPS for entities with which Lehigh may enter into NDAs and/or license agreements. |
| Office of International Affairs (OIA) Global Partnerships and Strategic Initiatives (GPSI) | GPSI is responsible for establishing and managing Lehigh’s international collaborations with other institutions.  GPSI’s role in export control compliance includes:   * Reviewing new and updated international collaborations for potential escalation to the ECO. * Conducting RPS for international collaboration entities and respective high-level personnel. |
| OIA Office of International Students and Scholars (OISS) | OISS is responsible for supporting Lehigh’s international student and scholar community, including sponsoring visas for international students and scholars and administering the I-129 process.  OISS’s role in export control compliance includes:   * Facilitating the Deemed Export Process for certain visa holders, including H-1B and O-1 visas. |
| Study Abroad Office | The Study Abroad Office is responsible for supporting ITAC with reviewing all university travel involving students.  Study Abroad Office’s role in export control compliance includes:   * Routing student travel proposed to ITAC to the ECO for review as necessary |
| Human Resources (HR) | HR is responsible for establishing hiring protocols for Lehigh staff, including administering the I-9 and, in partnership with OISS, I-129 processes.  HR’s role in export control compliance includes:   * Conducting RPS for all classified staff hires. * Providing reports to the ECO to facilitate batch RPS for hired post-doctoral trainees in Identified Academic Units. * Confirming country of citizenship for personnel working on export controlled research, as requested by ORSP or ORI. |
| Office of the Provost & Senior Vice President for Academic Affairs (Provost’s Office) | The Provost’s Office is responsible for establishing hiring protocols for Lehigh faculty and for administering the Collaborating Academic Visitors Policy.  The Provost’s Office’s role in export control compliance includes:   * Routing all international Collaborating Academic Visitors who are both Foreign Nationals and participating in research to the ECO for RPS and deemed export screening. * Conducting RPS for all tenured, tenure-track, and research term faculty hired into Identified Academic Units. |
| Enrollment Services | Enrollment Services is responsible for managing graduate student admission.  Enrollment Services’ role in export control compliance includes:   * Providing reports to the ECO to facilitate batch RPS for newly deposited/applicant accepted graduate students in Identified Academic Units. |
| Controller’s Office | The Controller’s Office is responsible for managing Lehigh’s capital assets.  The Controller’s Office’s role in export control compliance includes:   * Tagging export controlled assets. * Supporting maintenance of export controlled assets through the asset tagging and annual inventory processes. |
| Purchasing Services (Purchasing) | Purchasing is responsible for administering Lehigh’s central procurement system, Unimarket, procurement cards (OneCard), and travel.  Purchasing’s role in export control compliance includes:   * Conducting RPS for new vendors prior to vendor setup. * Reviewing certain purchases for potential escalation to the ECO. * Querying purchases to identify purchases made without ECCN and/or USML identifiers and escalating to the ECO. * Querying international travel to identify international travelers and providing information to the ECO. |
| Library and Technology Services (LTS) | LTS is responsible for administering the Laptop and Mobile Device Loaner Program and for reviewing Data Use Agreements (DUAs).  LTS’s role in export control compliance includes:   * Supporting development of Technology Control Plans as requested. * Maintaining role-based access to Lehigh networks. * Providing loaner laptops and communicating with international travelers. * Reviewing DUAs for potential escalation to the ECO. |

Faculty and Academic Units with Operational Responsibility for Export Control Compliance

Faculty

Faculty are responsible for maintaining compliance with export control laws, regulations, and policy, including while conducting research and scholarly activities. Key responsibilities for Faculty include:

* Referencing and following the requirements outlined in the [Export Control Compliance Review of Purchases SOP](https://research.cc.lehigh.edu/sites/research.cc.lehigh.edu/files/documents/ORI/08-Feb-2023%20Export%20Control%20Compliance%20Review%20of%20Purchases.pdf) for all purchases.
* Reviewing and confirming understanding and awareness of export control restrictions on research projects prior to accepting the sponsored funding.
* Developing Technology Control Plans for export controlled research and maintaining compliance with such Plans.
* Ensuring research team members understand and are aware of export control obligations, including briefing research team members on project-specific obligations and/or Technology Control Plans.
* Knowing if their data, materials, or technology may be subject to export control, complying with any applicable Technology Control Plans, and taking appropriate action to obtain licenses when sharing export controlled items through data or material transfers, traveling abroad, or presenting at conferences.
* Working with LTS to determine if loaner laptops and/or devices should be taken when traveling abroad.
* Complying with all Restricted Party Screening processes.
* Complying with the Export Control Compliance Review of Sponsored Programs Personnel process when identifying collaborators and staff to work on export controlled research.
* Complying with the Collaborating Academic Visitors Policy when hosting visiting scholars.

Information for Faculty is also available on our [website](https://research.cc.lehigh.edu/info-for-faculty).

Academic Units

Academic Units (e.g., colleges, departments, etc.) are responsible for supporting faculty compliance and maintaining operational compliance with export control laws, regulations, and policy. Key responsibilities for Academic Units include:

* Providing information needed to conduct RPS for applicable Collaborating Academic Visitors
* Supporting the Export Control Compliance Review of Sponsored Programs Personnel process for faculty, staff, and student employees working on export controlled research.
* Referencing and following the requirements outlined in the [Export Control Compliance Review of Purchases SOP](https://research.cc.lehigh.edu/sites/research.cc.lehigh.edu/files/documents/ORI/08-Feb-2023%20Export%20Control%20Compliance%20Review%20of%20Purchases.pdf) for all purchases.
* Partnering with building managers, Center Directors, Institute Directors, and others who are responsible for equipment oversight to manage export controlled assets, including equipment and software, including partnering with the ECO to develop Technology Control Plans and complying with Technology Control Plans.
* Transferring materials internationally in compliance with any applicable international shipping and/or export control regulations, including through material transfer and data use agreements.
* Supporting international travel by following travel purchasing processes and ensuring travelers contact LTS for potential loaner laptops and/or devices while abroad.
* Booking international travel and supporting faculty with obtaining loaner laptops and other international travel procedures.

Identified Academic Units and Administrative Departments

Lehigh takes a risk-based approach to implementing its export control program. The following Academic Units and Administrative Departments have been identified as having a high likelihood of conducting export controlled research or housing export controlled equipment:

* College of Health
* P.C. Rossin College of Engineering
* College of Arts and Sciences, departments of:
  + Biological Sciences
  + Chemistry
  + Emulsion Polymer Institute
  + Math
  + Physics
* Library & Technology Services (LTS)
* University Police

Impacted Policies, Procedures, Roles, and Responsibilities

Purchasing and Asset Management

Lehigh applies a risk-based approach to purchased items. Almost every item manufactured in the U.S. is controlled by the CCL, but Export licenses are typically only required if a Foreign Person will Use the item (i.e., able to do all six activities considered in the definition of Use) or will physically export the item. In contrast, Defense Articles are controlled by ITAR and almost always require an Export license for a Foreign Person to operate the item or to physically export the item.

Lehigh is also responsible for ensuring it does not conduct business with any individual or organization under sanctions or blocked by the U.S. government. Purchasing establishes vendors in Banner. The vendor setup process helps ensure that Lehigh does not conduct business with a sanctioned or blocked entity or individual.

When Lehigh purchases equipment or software, it is important to know if the purchased item is a Controlled Physical Item so that Lehigh can ensure any licenses are obtained for Foreign Persons needing to Use the item. As such, Lehigh does not allow Controlled Physical Items to be purchased using OneCard. The [Lehigh University Purchasing Manual](https://businessservices.lehigh.edu/purchasing-policies) has additional information about purchasing compliance.

* ***All purchasers are responsible for referencing and following the requirements outlined in the*** [***Export Compliance Review of Purchases SOP***](https://research.cc.lehigh.edu/sites/research.cc.lehigh.edu/files/documents/ORI/08-Feb-2023%20Export%20Control%20Compliance%20Review%20of%20Purchases.pdf) ***before making any purchase.*** If required by the Export Control Compliance Review of Purchases SOP, the purchaser is also responsible for:
  + Obtaining the ECCN or USML from the manufacturer and entering the ECCN or USML in UniMarket.
  + For USML-controlled items, obtaining prior approval from the ECO **prior to purchasing.**
* Purchasing is responsible for:
  + Conducting RPS on new vendors during vendor setup (students receiving tuition-related reimbursements are not considered vendors for export control purposes).
  + Reviewing contracts, as applicable and in partnership with other central offices, through the [Lehigh University Contract Administration (LUCA) process](https://businessservices.lehigh.edu/contracts) and escalating applicable contracts to the ECO for review
  + Importing ECCN and USML data from UniMarket to Banner.
* Capital Asset Accounting is responsible for:
  + Supporting asset custodians with asset tagging.
  + Administering the annual inventory process to maintain asset locations and disposition.
  + Providing reports on capital assets to ORI.
* Asset custodians are responsible for:
  + Tagging new assets and maintaining accurate asset locations and disposition in accordance with processes administered by [Capital Asset Accounting](https://financeadmin.lehigh.edu/content/capital-asset-accounting-forms).
  + Developing and ensuring compliance with Technology Control Plans, as necessary.
  + Notifying the ECO prior to moving the location of any asset under a Technology Control Plan.
  + Notifying [Capital Asset Accounting](https://financeadmin.lehigh.edu/content/capital-asset-accounting-forms) of additions, deletions, transfers that do not appear correctly on inventory reports.
  + For existing assets without an ECCN or USML (or determination that no ECCN or USML applies), identifying ECCN or USML from the manufacturer or partnering with the ECO to self-classify items.
* The ECO is responsible for:
  + Reviewing and authorizing proposed purchases of USML-controlled items as identified in the [Export Compliance Review of Purchases SOP](https://research.cc.lehigh.edu/sites/research.cc.lehigh.edu/files/documents/ORI/08-Feb-2023%20Export%20Control%20Compliance%20Review%20of%20Purchases.pdf) and intended use to determine if a license and/or Technology Control Plan is necessary for anticipated users.
  + Communicating obligations and requirements to asset custodians and purchasers of Controlled Physical Items.
  + Supporting asset owners with item classification, as necessary.
  + Supporting asset owners with developing Technology Control Plans, as necessary.

International Travel

[International travel](https://research.cc.lehigh.edu/information-international-travelers) typically does not require an Export license or specific approvals by the ECO, except in certain circumstances:

* Travel to countries that are comprehensively sanctioned or have strict trade restrictions imposed by the U.S. government requires advance planning.
* Taking Controlled Physical Items, Controlled Information, Technical Data, Source Code, or Encryption Software may require a license depending on the type of item, destination of the travel, and End User.

Lehigh’s [Travel and Business Expense Policy](https://financeadmin.lehigh.edu/content/travel-business-expense-policy-and-procedures-0) establishes general requirements for international travel. Student travel is governed by the International Travel Advisory Committee (ITAC).

* All international travelers are **required** to:
  + Use Lehigh’s travel agent to purchase travel,
  + Consult with LTS to determine if a loaner laptop or device should be taken abroad, **and**
  + Notify the ECO as soon as possible if traveling to a sanctioned country or intending to take Controlled Physical Items, Controlled Information, Technical Data, Source Code, or Encryption Software out of the U.S.
* [ITAC](https://global.lehigh.edu/about/risk-management) is responsible for notifying the ECO as soon as possible if student travel is planned to a sanctioned country or intending to take Controlled Physical Items, Controlled Information, Technical Data, Source Code, or Encryption Software out of the U.S.
* LTS administers the [Laptop and Mobile Device Loaner Program](https://confluence.cc.lehigh.edu/display/LKB/Loaner+Laptops), which provides clean devices on loan (i.e., devices without export controlled data or software).
* On a quarterly basis, Purchasing provides the ECO and LTS with a list of purchased international travel so the ECO and LTS can regularly communicate obligations and requirements with international travelers.

Temporary Export Exception

Even when taking certain Controlled Physical Items, Controlled Information, Technical Data, Source Code, or Encryption Software, a license exemption may be available through the Temporary Export license exception (TMP). The TMP allows for various temporary Exports and Re-Exports of Lehigh-owned items, technology, or software, so long as the Exported item will remain in the traveler’s physical custody and control for the duration of travel and will return to the U.S. no later than one year from the date of original Export or Re-Export. The TMP does not apply to:

* Satellite or space-related equipment, components, or software.
* Encryption items controlled under ECCN 5E002.
* Items controlled by ITAR.
* Travelers to embargoed countries.

A TMP self-certification form is available [here](https://research.cc.lehigh.edu/sites/research.cc.lehigh.edu/files/documents/ORI/TMP%20Self-Certification%2015-Jul-2022.docx). A TMP must be completed for each international trip and whenever any changes occur. Contact the ECO if you are not sure if the TMP applies or if you have questions about its contents.

BAG Exception

In addition to the TMP exception, the Export License Exception BAG (Baggage) allows those leaving the U.S. temporarily to take personal items, including personal hardware, software, and retail-level encryption items, so long as the items are for their personal use. Individuals leaving the U.S. temporarily must bring back the items they exported under this license exception unless the items are consumed or destroyed abroad.

A BAG self-certification form is available [here](https://research.cc.lehigh.edu/sites/research.cc.lehigh.edu/files/documents/ORI/BAG%20Self-Certification%2015-Jul-2022.docx). A BAG must be completed for each international trip and whenever any changes occur. Contact the ECO if you are not sure if the BAG applies or if you have questions about its contents.

International Shipping

Everything that leaves U.S. borders is considered an Export. In contrast to many other processes discussed in this Manual, export-related information is needed for almost all international shipments. Additionally, shipments of Controlled Physical Items, Controlled Information, Technical Data, Source Code, or Encryption Software, and shipments over $2,500 must be entered into the U.S. Census Bureau’s Automated Export System (AES).

Similarly, every export to another country is an import to that country; country-specific procedures and authorizations may also apply. Customs fees and Value Added Tax (VAT) may also apply to your shipment.

Additional regulations apply to shipments of hazardous or biological materials. Environmental Health & Safety (EH&S) maintains Lehigh’s policy on [Shipping of Hazardous Materials](https://facilities.lehigh.edu/environmental-health-safety).

Because of the complex requirements associated with international shipping, Lehigh strongly encourages all personnel shipping abroad to use an international customs broker. The customs broker will support preparing documentation needed for U.S. export compliance and identifying any requirements of the recipient country. Lehigh has an established relationship with ArcBest (Robert Kimball, [rkimball@arcb.com](mailto:rkimball@arcb.com); Larie Elliott, [LElliot@arcb.com](mailto:LElliot@arcb.com); Customer Service for domestic shipments: 800-610-5544; Customer Service for international shipments: 877-301-2237).

* The shipper is responsible for reviewing Lehigh’s [Guidance for International Shipments](https://research.cc.lehigh.edu/sites/research.cc.lehigh.edu/files/documents/ORI/International%20Shipment%20Assessment%2024-Aug-2022.pdf), which includes:
  + Reviewing the list of contents.
  + Contacting the ECO for an export license determination as necessary.
  + Providing the customs broker with accurate and complete information and obtaining copies of final documentation from the customs broker (or completing all required information and registering all applicable information in relevant government systems if not using a customs broker).
* The ECO:
  + Conducts RPS on the entity receiving the shipment.
  + Reviews the proposed shipment to determine if a license is necessary and can help with classifying the shipment contents.
* The ECO will involve EH&S if the proposed shipment involves hazardous or biological materials.

International Collaborations

International collaborations typically do not require an Export license or specific approvals by the ECO unless they involve use of Controlled Physical Items, Controlled Information, Technical Data, Source Code, or Encryption Software, or scholars in sanctioned countries. However, Lehigh is responsible for ensuring it does not conduct business with any individual or organization under sanctions or blocked by the U.S. government.

Establishing a New Collaboration

The Office of International Affairs (OIA) Global Partnerships and Strategic Initiatives Office (GPSI) establishes new collaborations in accordance with its [International Partnership Guidelines](https://global.lehigh.edu/gpsi/initiating-evaluating-partnerships). These guidelines include documenting the initial project proposal, anticipated partnership outcomes, and a lead contact at the partnering institution.

* GPSI notifies the ECO when a new partnership is contemplated.
* The ECO reviews the project proposal and anticipated outcomes to determine if a license is necessary.
* OIA conducts RPS on the entity and senior personnel at the entity, including the lead contact at the partnering institution.

Undertaking Activities using an Existing Collaboration

The Office of International Affairs (OIA) Global Partnerships and Strategic Initiatives Office (GPSI) works with faculty to engage with collaborators using existing partnership agreements. When a new activity is occurring under an existing agreement, an addendum to the existing agreement is established. This process includes documenting the project proposal and the scholars or other personnel involved from the partnering institution.

* GPSI notifies the ECO when an addendum to an existing partnership is contemplated.
* The ECO reviews the project proposal and anticipated outcomes to determine if a license is necessary.
* OIA conducts RPS on identified partnering institution personnel.

Personnel and Visitors

Through the other processes discussed in this manual, Lehigh works to ensure the vast majority of its research is considered fundamental and exempt from export control regulations so that its international community can participate in scholarly activity. However, as discussed in Deemed Exports, when Lehigh technology or research projects are subject to export controls, Foreign Persons involvement may need to be limited or controlled. In these instances, Lehigh works to apply appropriate, targeted controls to maintain compliance with export control regulations while limiting the impact to its international employees, students and scholars.

Faculty, Post-Doctoral Trainee, and Classified Staff Hiring and Graduate Student Admissions

Lehigh tenure, tenure-track, and research term faculty, post-doctoral trainees, and graduate students in Identified Academic Units (i.e., the College of Health, P.C. Rossin College of Engineering, and in the College of Arts and Sciences departments of Biological Sciences, Chemistry, Emulsion Polymer Institute, Math, and Physics); as well as all classified staff undergo RPS during the appointment or hiring process and dynamically as sanctions lists are updated. Certain Lehigh-sponsored visa holders are subject to additional requirements as outlined by the Office of International Students and Scholars’ (OISS) [Information for Departments](https://global.lehigh.edu/oiss/departments).

* The Provost’s Office conducts RPS for all tenured, tenure-track, and research term faculty hired into Identified Academic Units prior to hire
* Post-doctoral trainees:
  + HR provides the ECO with a query of post-doctoral trainees hired into Identified Academic Units.
  + The ECO conducts RPS on hired post-doctoral trainees in Identified Academic Units.
* Graduate students:
  + Enrollment Services provides the ECO with a query of newly deposited/applicant accepted graduate students in Identified Academic Units.
  + The ECO conducts RPS on newly deposited/applicant accepted admitted graduate students in Identified Academic Units.
* HR conducts RPS for all classified staff hires, regardless of citizenship status or visa sponsorship, prior to hire.
* OISS facilitates the [Visa Deemed Export Screening](https://research.cc.lehigh.edu/sites/research.cc.lehigh.edu/files/documents/ORI/Visa%20Deemed%20Export%20Questionnaire%20-%2012-Oct-2022.docx) process for Lehigh-sponsored H-1B and O-1 visa holders.
* Hiring managers are responsible for identifying whether hires need access to special equipment or software and partnering with the asset manager and the ECO to ensure compliance with any relevant Technology Control Plans.

Unscreened Personnel Participating in Federally Funded Research or Research with Identified Academic Units

Lehigh personnel who were not screened at time of hire (for example, faculty, postdoctoral trainees, and graduate students in non-Identified AUs, undergraduate students, wage workers, etc.) will undergo RPS if they are paid off of federally-funded sponsored programs or sponsored programs originating in an Identified AU (for example, a faculty member in Business participates in an award made to the Math department; a faculty member in Psychology receives a federal award, etc.).

* RPS is conducted automatically through Banner-Visual Compliance integration when the individual’s payroll is changed to include a federal sponsored program or Identified AU funding source or when effort is committed on a funded award.
* OISS administers the [Visa Deemed Export Screening process](https://research.cc.lehigh.edu/sites/research.cc.lehigh.edu/files/documents/ORI/Visa%20Deemed%20Export%20Questionnaire%20-%2012-Oct-2022.docx) for Lehigh-sponsored H-1B and O-1 visa holders.

Collaborating Academic Visitors

Collaborating Academic Visitors who are foreign nationals and will be participating in research at Lehigh undergo RPS prior to appointment. The Office of the Provost & Senior Vice President for Academic Affairs (Provost’s Office) administers Lehigh’s [Collaborating Academic Visitor Policy](https://provost.lehigh.edu/collaborating-academic-visitors/collaborating-academic-visitors-policy).

* Visitor requestors are responsible for completing the [Visitor Information Form](https://provost.lehigh.edu/collaborating-academic-visitors/collaborating-academic-visitors-process-and-procedures), including indicating whether the visitor will be participating in research, if the visitor is a Foreign Person, and if the visitor requires access to certain assets.
* The ECO is responsible for:
  + Conducting RPS on such visitors and the visitor’s home institution.
  + Conducting the [Export Control Compliance Review of Sponsored Programs Personnel](https://research.cc.lehigh.edu/sites/research.cc.lehigh.edu/files/documents/ORI/Deemed%20Export%20Questionnaire%20-%2012-Oct-2022.docx) process if the visitor will be participating in export controlled research.
  + Notifying the asset manager if the visitor requires access to certain assets and partnering with the asset manager and visitor requestor to ensure compliance with any relevant Technology Control Plans.

Research Administration

Research at Lehigh generally falls under the Fundamental Research Exception, or FRE (see above for detailed discussion on the FRE). Because of the FRE, most research at Lehigh is not subject to export controls. However, research can become subject to export controls in certain circumstances, including, but not limited to:

* Lehigh accepts restrictions on:
  + Publishing research data (this does not include pre-publication review).
  + What personnel can work on its research projects (e.g., prohibition on Foreign Person participation).
* The scope of the research includes:
  + Controlled Physical Items, Controlled Information, Technical Data, Source Code, or Encryption Software.
  + Controlled Unclassified Information as identified by the U.S. government.
  + Developing new Technology or Technical Data that is governed by export controls (e.g., designing a new laser, etc.) (see Technology Transfer).

Lehigh incorporates several checkpoints throughout the research lifecycle to review for potential export control impact.

Proposal and Solicitation Review and Submission

The Office of Research and Sponsored Programs (ORSP) reviews and submits proposals and solicitations on behalf of Lehigh’s faculty in accordance with its [Proposal Submission Policy](https://research.cc.lehigh.edu/sites/research.cc.lehigh.edu/files/documents/ORSP/Policies/Policy%20-%20Proposal%20Submission.pdf). Timely submission to ORSP ensures thorough review of all Lehigh and sponsor compliance requirements.

Current process prior to LIRA go-live:

* The research team completes the proposal.
* ORSP reviews the proposal. If ORSP identifies any potential export control issues during its review of the proposal, ORSP will:
  + Notify the ECO, and in partnership with the ECO, notify the PI of any planned steps to negotiate out export control terms and/or of potential implications should the award be made.
  + Flag the proposal in Banner for detailed review if an award is made.

New process effective after LIRA go-live:

* The research team completes the Funding Proposal submission in LIRA.
* ORSP reviews the Funding Proposal. If ORSP identifies any potential export control issues during its review of the Funding Proposal, ORSP will notify the ECO, and in partnership with the ECO, notify the PI of any planned steps to negotiate out export control terms and/or of potential implications should the award be made.

Award Acceptance and Contract Execution

ORSP accepts awards and executes sponsored research contracts on behalf of Lehigh University. ORSP, the ECO, and the PI work closely together before accepting projects subject to export controls to better understand and confirm whether Lehigh has resources to ensure export compliance (e.g., secured enclaves, facility access restrictions, etc.) and whether the PI can complete the research with export control restrictions (e.g., are research team members with appropriate expertise available, can publication restrictions be accepted, etc.).

* ORSP reviews award and contract terms and conditions for potential export control impacts and escalates any export control issues to the ECO.
* The ECO reviews escalated awards and, if the award is subject to export controls, works with the PI to determine if Lehigh can accept the award inclusive of export control restrictions.
* If the ECO and the PI determine that Lehigh can conduct such research, the ECO notifies ORSP that the award can be accepted and of applicable export control restrictions. ORSP then:
  + Obtains approvals prior to award setup. Research that includes export control restrictions must be approved by the PI, their respective Dean, and the VPR prior to accepting the award.
  + As necessary, initiates the [Export Control Compliance Review of Sponsored Programs Personnel](https://research.cc.lehigh.edu/sites/research.cc.lehigh.edu/files/documents/ORI/Deemed%20Export%20Questionnaire%20-%2012-Oct-2022.docx) process.
* Depending on the type of export control restrictions, the ECO will work with the PI to develop a Technology Control Plan and/or apply for a license with the applicable U.S. government agency. In these instances, award setup may be delayed until all necessary Technology Control Plans and/or licenses are in place.
* During the life of the award, the Academic Unit submits payroll allocations to charge personnel salary to sponsored programs. Banner integration with Visual Compliance triggers automatic RPS for individuals whose salary is charged to a federally-funded sponsored program or a sponsored program originating in an Identified Academic Unit.

Export Control Compliance Review of Sponsored Programs Personnel

When award terms and conditions restrict Foreign Persons’ participation in research or when a Foreign Person Collaborating Academic Visitor will participate in research, additional due diligence is conducted to prevent unlicensed deemed exports from occurring. As required by any award terms and conditions or any applicable Technology Control Plan:

* ORSP and the ECO will confirm any restrictions on Foreign Persons participation during the Award Acceptance and Contract Execution process. If confirmed, ORSP will initiate [Export Control Compliance Review of Sponsored Programs Personnel](https://research.cc.lehigh.edu/sites/research.cc.lehigh.edu/files/documents/ORI/Deemed%20Export%20Questionnaire%20-%2012-Oct-2022.docx) process.
* ORSP is responsible for confirming citizenship status of all export controlled research project personnel with HR and submitting this information to the ECO.
* The ECO is responsible for reviewing research project personnel citizenship status and the Technology Control Plan to determine if any licenses are needed.

Subcontract and Subaward Issuance

Regardless of whether research is export controlled, Lehigh is responsible for ensuring it does not conduct business with any individual or organization under sanctions or blocked by the U.S. government. Lehigh screens all subrecipients and subcontractors on all sponsored research projects.

* ORSP conducts RPS on the subaward or subcontract entity and the lead PI or point of contact at the entity for all subawards.
* ORSP will flow down any export control terms to any subrecipient.

Technology Transfer

Most technology transfer activity typically does not require an export license or specific approvals by the ECO unless activity stems from export controlled research or involves international transfer of materials or data. However, Lehigh is responsible for ensuring it does not conduct business with any individual or organization under sanctions or blocked by the U.S. government.

New Technology Development and Commercialization Activity

The Office of Technology Transfer (OTT) works closely with faculty who have created new intellectual property/technology during the course of their research and is authorized to pursue commercialization and licensing opportunities on Lehigh’s behalf. This work includes understanding novel technology and potential licensees of Lehigh technology.

* OTT reviews invention disclosures to determine if new technology could be considered a Controlled Physical Asset or contain Controlled Information, Technical Data, Source Code, or Encryption Software.
* OTT conducts RPS on all entities with which Lehigh may pursue any commercialization or licensing opportunities prior to executing a non-disclosure agreement with any such entity.

Material Transfers

OTT negotiates material transfer agreements (MTAs) for Lehigh’s faculty. This review includes understanding the material being transferred, the intended end use of the material, and the recipient of the materials.

Current process prior to LIRA go-live:

* The research team initiates an MTA in LUCA.
* OTT reviews the Agreement. If OTT identifies potential export control issues with the Agreement’s terms and conditions or if the MTA is intended for an international recipient, OTT escalates the agreement to the ECO.
* The ECO:
  + Conducts RPS on the recipient entity and lead personnel at the recipient entity.
  + Reviews the proposed transfer to determine if a license is necessary.
  + Notifies the research team of other applicable procedures relevant to International Shipping, as necessary.

New process effective after LIRA go-live:

* The research team initiates an MTA Agreement in LIRA.
* OTT reviews the Agreement. Based on the research team’s responses to export control questions in LIRA *or* if OTT identifies potential export control issues with the Agreement’s terms and conditions, OTT escalates the agreement to the ECO.
* The ECO:
  + Conducts RPS on the recipient entity and lead personnel at the recipient entity.
  + Reviews the proposed transfer to determine if a license is necessary.
  + Notifies the research team of other applicable procedures relevant to International Shipping, as necessary.

Data Sharing

Lehigh faculty use established Lehigh templates for data use agreements (DUAs) with outside recipients. LTS reviews DUAs for compliance requirements, including export control.

Current process prior to LIRA go-live:

* The research team initiates a DUA request and routes to LTS.
* If the DUA is intended for an international recipient, LTS escalates the agreement to the ECO.
* The ECO is responsible for:
  + Conducting RPS on the data recipient.
  + Confirming that any proposed data sharing of export controlled data is in compliance with applicable terms & conditions and any TCP.

New process effective after LIRA go-live:

* The research team initiates a DUA Agreement in LIRA.
* Based on the research team’s responses to export control questions in LIRA, LTS escalates the agreement to the ECO.
* The ECO is responsible for:
  + Conducting RPS on the data recipient.
  + Confirming that any proposed data sharing of export controlled data is in compliance with applicable terms & conditions and any TCP.

Export Control Operations

Restricted Party Screening

As discussed throughout this Manual, RPS is conducted by a variety of Lehigh offices to ensure that Lehigh does not do business or otherwise engage with persons or entities who are restricted, debarred, blocked, or sanctioned by the U.S. government. A summary of offices with RPS responsibilities is below.

* Offices conducting RPS are responsible for screening persons and entities in Visual Compliance.
* If screening produces a positive match, the office escalates the match to the ECO for resolution.
* The ECO is responsible for investigating the positive match, clearing or confirming the match, and providing background information to support leadership with determining whether confirmed matches restrict Lehigh from engaging with the person or entity.

|  |  |
| --- | --- |
| **Office** | **Restricted Party Screening Responsibility** |
| Research Integrity | * International material transfer, data transfer, and shipping entities * Collaborating Academic Visitors who are foreign nationals and will conduct research at Lehigh * Post-doctoral trainees and graduate students in Identified Academic Units * All individuals paid off federally funded sponsored programs or sponsored programs originating in an Identified Academic Unit, via maintaining Banner integration with Visual Compliance |
| Office of Research and Sponsored Programs (ORSP) | * Subaward and subcontract entities and respective named personnel |
| Office of Technology Transfer (OTT) | * Entities with which Lehigh explores commercialization or licensing opportunities. |
| Office of International Affairs (OIA) Global Partnerships and Strategic Initiatives (GPSI) | * International collaboration entities and respective high-level personnel |
| Human Resources (HR) | * Classified staff hires |
| Controller’s Office | * Vendors |
| Provost’s Office | * Tenure, tenure-track, and research term faculty in Identified Academic Units |

Resolving Export Control Impacts

The ECO is responsible for reviewing all escalated transactions identified in this Manual and providing other support regarding export controls to Lehigh’s community as requested. When a potential export control impact is identified, the ECO will work with the PI, asset owner, and other identified stakeholders to determine next steps, which may include:

* Documenting that a license exemption or exclusion applies, or
* Confirming that a license should be sought; and/or
* A Technology Control Plan should be developed to restrict access to the research or Controlled Physical Item.

Export Licenses

[Export licenses](https://research.cc.lehigh.edu/export-license-information) allow Lehigh personnel to engage in export controlled transactions, such as authorizing a Foreign Person participation in export controlled research, shipping Controlled Physical Items internationally, etc.

The ECO is authorized to make a recommendation to the Empowered Official that Lehigh should seek a license or to document that a license exemption or exclusion applies. If a license is required and the Empowered Official approves seeking a license, the ECO will submit a license request with the assistance of Counsel as needed.

Depending on the type of license needed, the U.S. government can take up to a year to review and determine the license request outcome. The U.S. government is not obligated to grant any license request. Please notify the ECO as soon as possible of any potential export control impact that may require a license so that Lehigh can attempt to minimize delays.

Technology Control Plans

[Technology Control Plans](https://research.cc.lehigh.edu/sites/research.cc.lehigh.edu/files/documents/ORI/SOP%20Developing%20a%20Technology%20Control%20Plan%2018-Aug-2022.pdf) are used to document internal controls to ensure that export controlled items are appropriately secured and guard against unintentional or unlicensed Release. Lehigh maintains a template TCP [here](https://research.cc.lehigh.edu/sites/research.cc.lehigh.edu/files/documents/ORI/27-Feb-2023%20TCP%20Template.docx); common elements of a TCP include:

* A commitment to export control compliance.
* Identification of the export controlled items (e.g., Controlled Physical Items, Controlled Information, Technical Data, Confidential Unclassified Information, Source Code, Encryption Software, etc.).
* Identification and citizenship status of all personnel participating in the research and/or using equipment or software.
* Personnel screening measures and training.
* Physical and information security measures for the duration of the project and following project termination, such as:
  + *Laboratory Compartmentalization*: cordoning off sections of labs to prevent physical or visual access on an ongoing basis or during research conduct.
  + *Time Blocking*: conduct of research or use of equipment may be limited to secured time blocks.
  + *Marking*: identification of export controlled information as Export Controlled.
  + *Access Controls*: access to facilities or networks may be monitored.
  + *Personnel Identification*: individuals working on research or using equipment may be required to wear physical identification confirming their ability to access facilities or equipment, such as a badge or card.
  + *Locked Storage*: equipment, operating manuals, lab notebooks, reports, data, and other physical documents may be stored in cardswipe facilities, keyed cabinets, etc.
  + *Electronic Storage*: computers used for research, networks, and electronic transmissions may be monitored and may require federally approved encryption technology.
  + *Network Segmentation*: research project data may be stored on separate networks that require specific access controls and monitoring.
  + *Confidential Communications*: research project discussions must be limited to identified, authorized project participants and only in private areas when other individuals are not present.

If the ECO determines that a TCP is necessary:

* The ECO is responsible for:
  + Notifying the PI or asset owner of the determination that a TCP is necessary.
  + Supporting TCP development.
* The PI or asset owner is responsible for:
  + Providing information requested by the ECO to support the determination.
  + Developing a TCP in partnership with the ECO, Academic Unit administrators, and other central offices as applicable (e.g., LTS, IDEAL, Facilities, etc.).

Recordkeeping

Records required to be maintained by export control laws and regulations will be kept for the longer of:

* The record retention period required by applicable export control regulations (*see* 15 C.F.R. Part 762 (EAR); 22 C.F.R. §§ 122.5, 123.22, and 123.26 (ITAR); and 31 C.F.R. § 501.601(OFAC)); or
* The record retention period required by Lehigh policy.

Operational records will be maintained in operations files specific to the project, item, etc. Documentation to retain includes:

* Internal correspondence, including memoranda, notes, email, etc.
* RPS results including methodology for documenting determinations.
* Applicable financial records.
* Shipping documentation.
* Export classification documentation.
* License or license exemption determinations.

Records should be protected against unauthorized access, use, disclosure, modification, or destruction, including taking steps to ensure the integrity of records. Records should be accessible via electronic or hard copy for audit and monitoring purposes consistent with Lehigh policy and in accordance with the terms of any export license or Technology Control Plan.

Training

Lehigh provides training directly to personnel in impacted central offices identified in this Manual. Training consists of an overview of export controls and targeted training on the office’s roles and responsibilities for export control compliance and applicable work tools.

Training for faculty members is provided through regular meetings with Academic Units. Training is also provided through ongoing outreach by the ECO when an individual engages in activity that may impact export control as identified throughout this Manual (for example, contacting international travelers, equipment purchasers, etc.).

Lehigh provides detailed training for individuals on export controlled projects or otherwise subject to a Technology Control Plan.

In addition, Lehigh incorporates training on export controls in its Responsible Conduct of Research training, which is administered in accordance with Lehigh’s [Policy: Responsible Conduct of Research Training Plan](https://research.cc.lehigh.edu/sites/research.cc.lehigh.edu/files/documents/ORSP/11-Jan-2019%20POL%20RCR%20Training%20Plan.pdf).

The ECO may require additional training for certain individuals based on their activities or job functions.

Monitoring

Export control compliance and monitoring is a shared responsibility that is coordinated by the ECO. Lehigh has adopted the following monitoring plan to maintain Lehigh’s export control compliance program and ensure adherence to U.S. export control laws and regulations.

Findings of monitoring activities will be reported to the Empowered Official and other Lehigh leadership as appropriate. Any suspected violations of U.S. export control laws or regulations will be reported to the Empowered Official.

Policies and Procedures

The ECO will review all export control Standard Operating Procedures and this Manual at least every two years. The ECO will also prompt all applicable policy and procedure owners to review policies and procedures relevant to export controls at least every two years. The review includes evaluating the internal controls implemented to ensure compliance with export control rules and procedures.

Training and Education

The ECO will review all training records on an annual basis to determine if personnel assigned to export control training have completed training requirements and follow up to ensure course completion. The ECO will annually review personnel assigned to export control training to ensure the list of trainees is accurate and complete.

Communication

The ECO will issue periodic communication to various constituencies to inform personnel of their export control obligations. Communications include sending information on export control compliance obligations to:

* Individuals taking international travel.
* Individuals who purchase or are asset owners of Controlled Physical Items.
* High-Performance Computing users.

Auditing and Monitoring

As identified in the Internal Audit workplan or through any other internal workplans, auditing and monitoring will be conducted of export control compliance to ensure that internal controls are functioning as designed. Examples of monitoring activities may include sampling research contracts to ensure export control terms were identified, confirming item classifications, reviewing international travel, etc.

The ECO will also review all Technology Control plans at least every three years. The review includes evaluating the internal controls implemented to ensure compliance with export control rules and procedures and pressure testing the controls.

Possible Violations and Disciplinary Action

Every Lehigh employee is responsible for reporting possible violations of U.S. export control laws and regulations. Individuals can report possible violations:

* By contacting the Empowered Official or the ECO.
* Anonymously by contacting Lehigh’s University Ethics Hotline at 888-924-4450 or [online](https://www2.lehigh.edu/internal-audit/hotline).

The Empowered Official or designee will investigate reports of possible violations in accordance with Lehigh policy and will determine if an appropriate government agency will be notified. The Empowered Official is authorized to suspend or terminate research or other scholarly activity if the investigation finds noncompliance or activity that will lead to noncompliance.

Export control violations can subject individuals and institutions to criminal and civil penalties by the U.S. government. All Lehigh personnel are subject to disciplinary action for violations of export control laws or regulations or Lehigh policy, up to and including termination.