## I.    Purpose

This SOP outlines the process for purchasers to determine if an export control compliance review by the Office of Research Integrity (ORI) is required prior to completing any purchase. Lehigh University Purchasing polices must also be followed.

## II.    Scope

Almost every product has an export control classification that determines the type of export restrictions that apply. Most products purchased at Lehigh University, like keyboards and test tubes, are classified as "EAR99". EAR99 is the designation for products subject to the Export Administration Regulations (EAR), but not on the Commerce Control List (CCL), and usually do not require a license. It is important to be aware that just because a product can be purchased online or is inexpensive does not mean that it is always "EAR99."

Many commercially available products used at the University, including laptops, cell phones, GPS systems, telescopes, and drones, are listed on the CCL. Some of these products, such as those listed below, are highly controlled. Because of the highly controlled nature of certain pieces of equipment, ORI conducts pre-reviews to ensure appropriate controls are in place before the equipment arrives at Lehigh.

If you are purchasing an item that is **not** on the Highly Controlled Items list below, **and** none of the Additional "Red Flags" listed below apply, you may proceed with the purchase without obtaining classification information (e.g. ECCN) or taking any additional steps.

**Highly Controlled Items** – all items listed below require additional steps prior to completing the purchase

Any items included in the Export Controlled Chemicals listed here
Military aircraft (including surveillance, aerial mapping)
Inertial navigation systems, inertial measurement units (IMUs), Altitude and Heading Reference Systems (AHRS)
Unmanned aerial vehicles (UAVs/drones)
Ground effect machines
Electronic intelligence, surveillance, or monitoring systems (and systems to counteract these)
Infrared (IR) sensors, focal plane arrays
Imagine intensification / image intensifiers
Thermal Imaging cameras, night sighting
Expensive Global Positioning Systems (GPS)
Protective personnel equipment (including body armor, radar/infrared [IR]-resistant clothing)
Weapons: side-arms, shotguns, silencers, guns, flame throwers, ammunition
Missiles, rockets, launch vehicles
Advanced composite ablative materials
Bombs, mines: equipment for detecting/detonating

Explosives, propellants, incendiary agents, energetic materials
Amphibious vehicles
Military vehicles (including underwater sound equipment, radar, military computers)
Carbon/carbon billets and preforms with 3+D reinforcement
Carbon/carbon and metal matrix composites
Chemical agents (nerve agents, vesicant agents, incapacitating agents) and their precursors; tear gases, defoliants; equipment to handle or protect against these
Spacecraft, including CubeSats and other satellites
Nuclear weapons
Military radiation detection/measurement
Directed energy weapons (laser, particle beam, radio)
Submersible vessels (manned or unmanned, tethered or untethered)

**Additional "Red Flags"** – all issues listed below require additional steps prior to completing the purchas**e:**

    a. The vendor includes any of the following language in correspondence, sales terms and conditions, purchase orders, quotes, or on their website: *no export, no foreign nationals, ITAR, USML Category, ECCN, export restricted, U.S. Only.*
    b. Purchasers are asked to complete an "end-use" statement or "end-user" certification.
    c. Purchases will be shipped outside of the U.S.
    d. Lehigh faculty, staff, students, or other personnel will "Use" the product, i.e., do ***all six*** of the following with it: operate, install (including on-site installation), maintain (check), repair, overhaul, ***and*** refurbish.

Reminder: If you are purchasing an item that is **not** on the Highly Controlled Items list above, **and** none of the Additional "Red Flags" above apply, you may proceed with the purchase without obtaining classification information (e.g. ECCN) or taking any additional steps.

## III. Procedure

### 1. Export Control Compliance Review of Proposed Purchases

If proposing to purchase any of the items in the Highly Controlled Items list above, or if any of the Additional "Red Flags" above are included, ***you are required to ask the vendor to provide you with the product's export classification prior to completing the purchase.***

***The decision tree in Appendix 1 is a visual aid for the steps below.***

**Ask both of the following:**
    1. Is the item a defense article? If yes, please provide the ITAR category.
    2. Is the item a dual use article controlled under the EAR?
        a. If yes, is the item designated as "EAR99"?

   i. If not EAR99, please provide the Export Control Classification Number (ECCN).

*Note: Federal regulations specify that it is the developer/manufacturer's obligation to assist in the determination of the export controls classification of its products provided to the University.*

**Proceed as follows based on the responses:**

 a. **Uncontrolled purchase:** if the responses to both 1 and 2 above are "no", **and** none of the Additional "Red Flags" apply, the purchase may proceed without export control compliance review by the Office of Research Integrity (ORI).

 b. **EAR99 purchase:** If the response to 1 is no, and 2a is yes, the item is likely EAR99. If none of the Additional "Red Flags" apply, the purchase may proceed without export control compliance review by the Office of Research Integrity (ORI). ***You must enter "EAR99" into the "Add Notes" field in Unimarket during checkout.*** If purchasing an EAR99 item with One Card, no additional notes are required.

 c. **Dual use purchase:** If the response to 1 is no, and 2a is no, **and** none of the Additional "Red Flags" apply, the purchase may proceed without export control compliance review by the Office of Research Integrity (ORI). ***You must supply the ECCN using "Add Notes" in Unimarket during checkout.***
  *Note: Dual use purchases may not be made with a university One Card and should be made in Unimarket.*

 d. **Defense article purchase:** If the answer to 1 above is "yes", the item is a defense article. Contact the ORI to determine if the purchase can move forward, by moving to step 2 below, "Completing a Defense Article Purchase". Supply the ITAR category when contacting ORI.

*If any of the Additional "Red Flags" from section II apply, or you are unsure about the purchase, contact the ORI prior to completing the purchase.*

## 2. Completing a Defense Article Purchase

The ORI will work with the purchaser to gather all information necessary to promptly determine if a defense article can be purchased. Once a determination to move forward with purchase of a defense article has been made, the purchaser must submit the ITAR category, along with any additional required supporting documentation, per the applicable purchasing process as outlined in the Lehigh University Purchasing Manual. This will include entering the ITAR category in Unimarket checkout using "Add Notes" when necessary.

***Note: Defense article purchases may not be completed with a university One Card.***

If the proposed purchase is from a new vendor that has not yet been established in Unimarket, the purchaser must contact Purchasing to initiate Restricted Party Screening (RPS) prior to entering a requisition.

### 3. Export Control Notices in Packages

When items arrive, check packaging for any reference to "export controls" or "export control classification numbers (ECCN)". If any of these references to export controls are included in packages, immediately forward a copy of the documentation to the ORI for review.

If documentation cites 10 C.F.R. § 110 or 810, or includes language indicating that an item is subject to the Arms Export Control Act, ITAR, or Department of Energy export control regulations, secure the subject item from access by foreign nationals and notify the ORI.

### 4. Purchasing Goods and Services to be Shipped Outside of the U.S.

Reference the International Shipment Assessment guidance if you are purchasing products that will be shipped to locations outside of the U.S., or are contracting for services to be performed outside of the U.S. ORI will coordinate with the purchaser and the University's customs broker to determine whether the University may ship the goods outside of the U.S. and identify any licenses that may be required.

### 5. Foreign Sale, Transfer, or Donation

Pre-approval by the Export Control Officer is required prior to selling, transferring, or donating university property to a foreign entity. Sale, transfer, or donation of university property is addressed further in the following university policies/procedures:

- University Business Services: Surplus Sale and/or Disposal Guidelines
- LTS: procedure for the disposal or relocation of computer equipment
- Controller's Office: Disposition of Capital Assets

### 6. Additional Controls for Purchased Items

Depending on the material or equipment involved, the University Export Control Officer (ECO) may contact the purchaser and/or the individual(s) with ongoing responsibility for custody of the item to:

- Secure defense articles through development and implementation of a Technology Control Plan (TCP).
- Determine if there are deemed export concerns.
- Controlled items are labeled/tagged appropriately. This includes any computer on which any controlled software is installed.

## IV. Relevant University Policies

Policy: Export Control
Lehigh University Purchasing Manual
Lehigh University Purchasing policies

**Summary of Revisions to this Policy**

| Effective Date | Revisions |
|---|---|
| | |

| 08-Feb-2023 | ● Added text to clarify that the purchaser is only required to obtain and record export control classification information (e.g. ECCN, etc.) if the item is on the list of Highly Controlled Items and/or the Additional Red Flags apply. |
|---|---|
| 27-Jan-2023 | ● Adding a requirement to note in Unimarket when an EAR99 item is being purchased. |
| 9-Dec-2022 | ● Corrections to the process of recording ECCNs as part of the Unimarket checkout process. |
| 14-Oct-2022 | ● Initial version. |

# Export Control Purchasing Compliance Review

**Is the item listed within the list of "Highly Controlled" items?**

**NO** ↓

**Do any of the additional "Red Flags" apply?**

- Vendor includes any of the following language: "*no export; no foreign nationals; ITAR; USML Category; ECCN; export restricted; U.S. Only.*"
- Request for an "end-use" statement or "end-user" certification
- Purchases will be shipped outside of the U.S.
- Lehigh faculty, staff, students, or other personnel will "Use" the product, i.e. do **all six** of the following: operate, install (including on-site installation), maintain (check), repair, overhaul, **and** refurbish.

**YES / UNSURE** →

**Consultation with ORI required prior to purchase. Provide the USML Category and/or ECCN in your communication with ORI.**

**NO** ↓

**Is the item a defense article controlled under ITAR?**

**NO** ↓

**Is the item a dual use item controlled under EAR?**

**Item is EAR99**

**Item has an ECCN number**

**Enter either "EAR99" or the ECCN using "Add Notes" field during Unimarket checkout**

**NO** →

**The purchase may proceed without additional export control compliance review by the Office of Research Integrity (ORI)**