



# Export Control Compliance Program

August 14, 2015

## **ORGANIZATIONAL POLICY**

The University of Florida ('UF') is fully committed to complying with applicable export control laws. To ensure compliance with these laws, UF projects and programs will be managed in accordance with applicable Federal laws, rules and regulations as well as the UF Dean, Director and Department Chair Memoranda ('DDD'), 'University's Policies Regarding Compliance with U.S. Export Controls: Responsibilities of Faculty, Staff and Students' dated May 19, 2008. (see Attachment A). These govern to the extent of any inconsistencies with the UF Information and Guidelines on United States Export Control Laws dated 6/10/2004 (See Attachment B), which also apply.

## **INSTITUTIONAL COMMITMENT**

As a public institution of higher education, UF employs foreign nationals; collaborates with international partners on research, education and services; and hosts foreign visitors and international students in connection with international exchange programs as well as other academic, research and collaboration agreements. It is the intent of UF to employ foreign nationals, collaborate with foreign nationals and host international visitors, both long and short term, in the most welcoming manner possible while also assuring compliance with U.S. laws and regulations governing the export of certain items (including such items as equipment, software, chemicals, and biological materials) and technical data.

The U.S. Department of Commerce regulates certain dual-use technologies, materials, items, software, and technology by the Export Administration Regulations ('EAR'). The U.S. Department of State controls the export of defense articles, defense services and related technical data through the International Traffic in Arms Regulations ('ITAR') and the Arms Export Control Act ('AECA'). The Department of the Treasury Office of Foreign Assets Control ('OFAC') regulates travel and business activities with sanctioned and embargoed countries as well as certain individuals and entities designated on various lists such as the Specially Designated Nationals ('SDN') list.

Most activities on campus will not trigger export licensing requirements and will be eligible for exclusions under the fundamental research exclusion, the publicly available or public domain information exclusion, or the educational exclusion. For those activities that are not eligible for such protections, each employee is personally responsible for safeguarding export-controlled data/information, i.e. controlled technology or technical data, as required by the above federal agencies from disclosure to foreign persons without prior approval. An export license from the U.S. government or determination by the UF Division of Research Compliance (DRC) that an export license exception or exemption is available is required before a foreign person or foreign national may be given access to items or technology/technical information controlled by either the U.S. Department of Commerce, the U.S. Department of State or the U.S. Department of Energy. No release of classified information (i.e. confidential, secret, top secret) is permitted to

any person without the proper security level clearance and a documented “need to know” for that specific information.

#### **TREATMENT OF INFORMATION REQUESTS**

As a public educational institution of the State of Florida, UF has certain obligations to respond to requests for “public” information under F.S. 1004.22. However, not all information of the University is subject to state statutes and each request for information is reviewed by appropriate administrators and/or General Counsel for our legal obligations relating to release or protection of the information. UF believes sufficient control and supervision will exist with regard to all employees, undergraduate and graduate students, including those with foreign national status, such that there will not be any release of controlled technology, source code, technical data, etc. Much of UF’s information is in the public domain. However, it is the intention of UF to protect all its information not in the public domain unless appropriately authorized by a court of competent jurisdiction, applicable state statute, or the U.S. Government as may be required in each individual case.

In order for UF to assume responsibility to meet federal regulations previously cited, no employee, graduate/undergraduate student or other employee or other person acting on behalf of UF shall, disclose, or transmit controlled technical data, as herein defined, without full compliance with this policy document.

#### **DESCRIPTION OF UNIVERSITY’S DEFENSE TRADE FUNCTIONS**

The UF is a public institute of higher education whose mission consists of education, research and service. As a large, comprehensive, land-grant, research institution and a U.S. institute of higher education, most research, teaching, or service at UF will appropriately fall under the fundamental research exclusion, the publicly available/public domain exclusion, the education exclusion or a combination of the three. Though rarely will UF be involved in a project subject to export controls, it is acknowledged that there will be such occasions. Given the nature of an academic institution with the breadth and depth of research, services and education as UF, there is no one definitive area or a specific defense trade function in which UF may be involved. However, the typical project subject to export controls will either be a contract with the Federal Government or consist of a subcontract from another party that is flowing Federal funds to the University of Florida.

#### **APPLICABLE U.S. LAWS AND REGULATIONS (ITAR, EAR, AECA, OFAC)**

##### *U.S. Legal Regimes*

Three principal U.S. regulatory regimes govern the export of items and technology from the U.S., and the re-export or retransfer of the items outside the U.S.:

- The export items irrespective of origin or the re-export of U.S.-origin items or technologies that are commercial or “dual-use” in nature is subject to the Export Administration

Regulations (“EAR”), 22 C.F.R. Pt. 730, et seq., administered by the U.S. Department of Commerce, Bureau of Industry and Security (“BIS”). A copy of the updated set of regulations is available at: [http://www.access.gpo.gov/bis/ear/ear\\_data.html](http://www.access.gpo.gov/bis/ear/ear_data.html).

- The export, re-export, or retransfer of defense articles and related technical data and defense services (i.e., items or technology that are “inherently military” in nature, as determined by the State Department not by the researcher’s intent, as well as most space-related items) is subject to the International Traffic in Arms Regulations (“ITAR”), 22 C.F.R. Pt. 120, et seq., administered by the U.S. Department of State, Directorate of Defense Trade Controls (“DDTC”). A copy of the updated set of regulations is available at: [http://www.pmddtc.state.gov/regulations\\_laws/itar\\_official.html](http://www.pmddtc.state.gov/regulations_laws/itar_official.html).
- For certain prohibited persons or destinations, the export, re-export, or retransfer of all U.S.-origin items or technologies is generally prohibited under regulations administered by the Department of Treasury, Office of Foreign Assets Control (“OFAC”). See Section 5.2 of this Policy (Activities involving countries subject to “Sanctions” or “Embargoes”) for more details. A copy of the updated set of regulations is available at: <http://www.treas.gov/offices/enforcement/ofac/programs/index.shtml>.

Various other U.S. government agencies administer limited controls on the export, re-export, or retransfer of certain types of items and technologies with which UF may be involved, such as the following:

- Nuclear Regulatory Commission (‘NRC’) (nuclear equipment and materials);
- Department of Energy (‘DOE’) (nuclear technology, high-energy lasers, etc.);
- Food and Drug Administration (‘FDA’) (drugs and medical devices);
- Drug Enforcement Agency (‘DEA’) (drugs and certain chemicals).

If any UF employee or student believes that he or she is working with an item or technology that might be subject to the jurisdiction of the NRC, DOE, FDA, DEA; an item, software or technical information listed on the Commerce Control List (CCL), or a defense article, technical data or a defense service subject to the ITAR, the employee should notify the DRC, which leads the UF Export Control Compliance Review Team as promptly as possible, unless DRC is already aware of the work. The Assistant VP and Director of DRC (Director) is UF’s Empowered Official for export controls.

Additional information about the various U.S. export control programs that may also apply to the export, re-export, or retransfer of materials and technologies can be found at the websites of many of the U.S. government agencies administering and enforcing these controls as well as the Division of Research Compliance and General Counsel (GC) websites.

**DEFINITION OF TERMS (ITAR):**

*§ 120.17 Export is defined as:*

- (1) Sending or taking a defense article out of the United States in any manner, except by mere travel outside of the United States by a person whose personal knowledge includes technical data; or
- (2) Transferring registration, control or ownership to a foreign person of any aircraft, vessel, or satellite covered by the U.S. Munitions List, whether in the United States or abroad; or
- (3) Disclosing (including oral or visual disclosure) or transferring in the United States any defense article to an embassy, any agency or subdivision of a foreign government (e.g., diplomatic missions); or
- (4) Disclosing (including oral or visual disclosure) or transferring technical data to a foreign person, whether in the United States or abroad; or
- (5) Performing a defense service on behalf of, or for the benefit of, a foreign person, whether in the United States or abroad.
- (6) A launch vehicle or payload shall not, by reason of the launching of such vehicle, be considered an export for purposes of this subchapter. However, for certain limited purposes (see § 126.1 of this subchapter), the controls of this subchapter may apply to any sale, transfer or proposal to sell or transfer defense articles or defense services.

*§ 120.6 Defense article is defined as:*

Defense article means any item or technical data designated in § 121.1 of this subchapter. The policy described in § 120.3 is applicable to designations of additional items. This term includes technical data recorded or stored in any physical form, models, mockups or other items that reveal technical data directly relating to items designated in § 121.1 of this subchapter. It does not include basic marketing information on function or purpose or general system descriptions.

*120.9 Defense service is defined as:*

- (1) The furnishing of 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;
- (2) The furnishing to foreign persons of any technical data controlled under this subchapter (see § 120.10), whether in the U.S. or abroad; or

(3) Military training of foreign units and forces, regular and irregular, including formal or informal instruction of foreign persons in the U.S. or abroad or by correspondence courses, technical, educational, or information publications and media of all kinds, training aid, orientation, training exercise, and military advice. (See also § 124.1.)

*§ 120.10 Technical data is defined as:*

(1) Information, other than software as defined in § 120.10(a)(4), 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.

(2) Classified information relating to defense articles and defense services;

(3) Information covered by an invention secrecy order;

(4) Software as defined in § 121.8(f) of this subchapter directly related to defense articles;

(5) This definition does not include information concerning general scientific, mathematical or engineering principles commonly taught in schools, colleges and universities or information in the public domain as defined in § 120.11. It also does not include basic marketing information on function or purpose or general system descriptions of defense articles.

*§ 120.11 Public domain is defined as:*

Information which is published and which is generally accessible or available to the public:

(1) Through sales at newsstands and bookstores;

(2) Through subscriptions which are available without restriction to any individual who desires to obtain or purchase the published information;

(3) Through second class mailing privileges granted by the U.S. Government;

(4) At libraries open to the public or from which the public can obtain documents;

(5) Through patents available at any patent office;

(6) Through unlimited distribution at a conference, meeting, seminar, trade show or exhibition, generally accessible to the public, in the United States;

(7) Through public release (i.e., unlimited distribution) in any form (e.g., not necessarily in published form) after approval by the cognizant U.S. government department or agency (see also § 125.4(b)(13) of this subchapter);

(8) Through fundamental research in science and engineering at accredited institutions of higher learning in the U.S. where the resulting information is ordinarily published and shared

broadly in the scientific community. Fundamental research is defined to mean basic and applied research in science and engineering where the resulting information is ordinarily published and shared broadly within the scientific community, as distinguished from research the results of which are restricted for proprietary reasons or specific U.S. Government access and dissemination controls. University research will not be considered fundamental research if:

- (i) The University or its researchers accept other restrictions on publication of scientific and technical information resulting from the project or activity, or
- (ii) The research is funded by the U.S. Government and specific access and dissemination controls protecting information resulting from the research are applicable.

*§ 120.15 U.S. person is defined as:*

U.S. person means a person (as defined in §120.14 of this part) who is a lawful permanent resident as defined by 8 U.S.C. 1101(a)(20) or who is a protected individual as defined by 8 U.S.C. 1324b(a)(3). It also means any corporation, business association, partnership, society, trust, or any other entity, organization or group that is incorporated to do business in the U.S. It also includes any governmental (federal, state or local) entity. It does not include any foreign person as defined in §120.16 of this part.

*§ 120.16 Foreign person is defined as:*

Foreign person means any natural person who is not a lawful permanent resident as defined by 8 U.S.C. 1101(a)(20) or who is not a protected individual as defined by 8 U.S.C. 1324b(a)(3). It also means any foreign corporation, business association, partnership, trust, society or any other entity or group that is not incorporated or organized to do business in the U.S., as well as international organizations, foreign governments and any agency or subdivision of foreign governments (e.g., diplomatic missions).

The National Industrial Security Program Manual (1995 version) distinguishes between a “foreign national” and an “immigrant alien,” the latter defined as “any person lawfully admitted into the U.S. under an immigration visa for permanent residence” (i.e. one who possesses permanent resident, or immigrant-visa status).

**DEFINITION OF TERMS (EAR):**

*§ 734.2(b) Export is defined as:*

(1) *Definition of export.* “Export” means an actual shipment or transmission of items subject to the EAR out of the United States, or release of technology or software subject to the EAR to a

foreign national in the United States, as described in paragraph (b)(2)(ii) of this section. See paragraph (b)(9) of this section for the definition that applies to exports of encryption source code and object code software subject to the EAR.

(2) *Export of technology or software.* (See paragraph (b)(9) for provisions that apply to encryption source code and object code software.) “Export” of technology or software, excluding encryption software subject to “EI” controls, includes:

- (i) Any release of technology or software subject to the EAR in a foreign country; or
- (ii) Any release of technology or source code subject to the EAR to a foreign national. Such release is deemed to be an export to the home country or countries of the foreign national. This deemed export rule does not apply to persons lawfully admitted for permanent residence in the U.S. and does not apply to persons who are protected individuals under the Immigration and Naturalization Act (8 U.S.C. 1324b(a)(3)).

Note that the release of any item to any party with knowledge a violation is about to occur is prohibited by § 736.2(b)(10) of the EAR.

(3) *Definition of “release” of technology or software.* Technology or software is “released” for export through:

- (i) Visual inspection by foreign nationals of U.S.-origin equipment and facilities;
- (ii) Oral exchanges of information in the U.S. or abroad; or
- (iii) The application to situations abroad of personal knowledge or technical experience acquired in the United States.

*§ 722.1 Technology is defined as:*

Technology is specific information necessary for the “development”, “production”, or “use” of a product. The information takes the form of “technical data” or “technical assistance”. Controlled “technology” is defined in the General Technology Note and in the Commerce Control List (Supplement No. 1 to part 774 of the EAR).

Technical assistance—May take forms such as instruction, skills training, working knowledge, consulting services and may involve transfer of “technical data”.

*Technical data* —May take forms such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals and instructions written or recorded on other media or devices such as disk, tape, read-only memories.

*§ 722.1 Publicly available information is defined as:*

Information that is generally accessible to the interested public in any form and, therefore, not subject to the EAR (See part 732 of the EAR).

*Publicly available technology and software.* Technology and software that are already published or will be published; arise during, or result from fundamental research; are educational; or are included in certain patent applications (see § 734.3(b)(3) of the EAR).

*§ 722.1 U.S. person is defined as:*

Any individual who is a citizen of the United States, a permanent resident alien of the United States, or a protected individual as defined by 8 U.S.C. 1324b(a)(3); (2) Any juridical person (firm, governmental organization) organized under the laws of the United States.

**DEFINITION OF TERMS (DOE):**

*10 CFR Part 110.2 Export is defined as*

*Export* means to physically transfer nuclear equipment or material to a person or an international organization in a foreign country, except DOE distributions as authorized in Section 111 of the Atomic Energy Act or Section 110 of the International Security and Development Cooperation Act of 1980.

*10 CFR 810.3 Public Information is defined as:*

- (1) Information available in periodicals, books or other print or electronic media for distribution to any member of the public, or to a community of persons such as those in a scientific, engineering, or educational discipline or in a particular commercial activity who are interested in a subject matter;
- (2) Information available in public libraries, public reading rooms, public document rooms, public archives, or public data banks, or in university courses;
- (3) Information that has been presented at an open meeting (see definition of “open meeting”);
- (4) Information that has been made available internationally without restriction on its further dissemination; or
- (5) Information contained in an application which has been filed with the U.S. Patent Office and eligible for foreign filing under 35 U.S.C. 184 or which has been made available under 5 U.S.C. 552, the Freedom of Information Act.

Public information must be available to the public prior to or at the same time as it is transmitted to a foreign recipient. It does not include any technical embellishment,

enhancement, explanation or interpretation which in itself is not public information, or information subject to sections 147 and 148 of the Atomic Energy Act.

***§810.3 Person is defined as:***

Person means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Department of Energy, any State or political entity within a State; and (2) any legal successor, representative, agent or agency of the foregoing.

***In general***, under all three regulatory regimes students, faculty and visitors who are on non-immigrant status are therefore considered foreign persons or foreign nationals.

*In summary, an “export” occurs whenever controlled technology, technical data, software, materials, equipment, technical assistance or defense services are disclosed in any medium or manner abroad, to a foreign person or foreign national. If an export of technical data, technology, software, defense article or defense service occurs within the U.S. (even on Campus), that action is termed a “deemed” export to the foreign national/ foreign person’s country of origin.*

## **EXPORT CONTROL COMPLIANCE ORGANIZATIONAL STRUCTURE**

### **COMPLIANCE IS A MATTER FOR TOP MANAGEMENT ATTENTION THAT NEEDS ADEQUATE RESOURCES**

The UF Export Control Compliance Review Team (Team) is comprised of the Assistant Vice President and Controller, Vice President and General Counsel or designee attorney (‘GC’), Director of Environmental Health and Safety (‘EHS’) and the Assistant Vice President and Director of Research Compliance, who leads the Team and is UF’s empowered official for export controls. The Team is in place to ensure that UF has the infrastructure, resources, policies and guidelines to comply with all institutional compliance issues associated with Export Controls.

### **KNOWLEDGE AND UNDERSTANDING OF WHEN AND HOW THE EAR, OFAC, AECA, AND ITAR AFFECT THE ORGANIZATION**

Both the Director and the GC are well versed in EAR, OFAC, AECA, DOE 10 CFR Part 810 (‘DOE’), NRC 10 CFR Part 110 (‘NRC’), and ITAR. Further, these individuals are cognizant of when and how these regulations affect the organization.

### **KNOWLEDGE OF INTERNAL CONTROLS THAT HAVE BEEN ESTABLISHED AND IMPLEMENTED IS NEEDED TO ENSURE COMPLIANCE WITH THE EAR, OFAC, AECA, AND ITAR**

As the parties instrumental in further development and expansion of the UF Compliance Program, the UF Compliance Review Team has either initiated the internal controls to ensure compliance with EAR, OFAC, AECA, and ITAR or they have put together the appropriate teams to establish and implement the necessary export control compliance program. The Director

through the Vice President for Research has UF approval authority for activities requiring export licensing, export licensing itself, and related security plans.

#### **RESOURCES PROVIDED TO DEVELOP AND IMPLEMENT THE PROGRAM**

The departments and or divisions involved in export controls related to ITAR, AECA, OFAC, DOE, NRC, and EAR have devoted personnel to the UF Export Control Working Group and other resources to ensure compliance with the Federal rules, regulations and statutes. The other resources include funds to support training in export controls, and acquisition of an unlimited seat license to Visual Compliance ('VC'). VC is a web based export control management tool that is useful for conducting the following export control compliance functions:

- Restricted parties screening;
- Locating Federal Regulations on export controls;
- Searching the Export Control Classification Number (ECCN) and (United States Munitions List (USML); and,
- Assisting in license determinations.

Asset Management Division, Purchasing Services and Environmental Health and Safety have implemented processes to track equipment, property (both UF titled and Government furnished), biologicals, chemicals and other materials that are controlled by ITAR, NRC and EAR.

#### **UF EXPORT CONTROL WORKING GROUP**

Assistant Vice President and Director of Research Compliance (Empowered Official)

**Irene M. Cooke, DVM, PhD**

Location: Division of Research Compliance  
University of Florida  
Gainesville, FL

Assistant Director of Research

**Terra DuBois, JD**

Location: Division of Research Compliance  
University of Florida  
Gainesville, FL

Assistant Director of Compliance

**Michael Scian, JD, MBA**

Location: Division of Research Compliance  
University of Florida  
Gainesville, FL

Associate Vice President and Deputy General Counsel

(Participation by VP and General Counsel Jamie Lewis Keith, as needed)

**Amy M. Hass, JD**

Location: Office of the Vice President and General Counsel  
University of Florida  
Gainesville, FL

Assistant Vice President and Director of Sponsored Programs

**Stephanie Gray**

Location: Division of Sponsored Programs  
University of Florida  
Gainesville, FL

Chief Audit Executive

**Brian Mikell, CPA**

Location: Office of Internal Audit  
University of Florida  
Gainesville, FL

Biological Safety Officer

**Karen Gillis**

Location: Environmental Health and Safety  
University of Florida  
Gainesville, FL

Laboratory Safety Officer

**Mark Yanchisin**

Location: Environmental Health and Safety  
University of Florida  
Gainesville, FL

Purchasing Director

**Lisa Deal**

Location: Purchasing Services  
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Accounting Coordinator 4

**Sherry Adams**

Location: Asset Management Services  
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Sr. Grant Specialist, Asset Management

**Marsha White**

Location:     Asset Management  
                  University of Florida  
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Dean University of Florida International Center

**Leonardo A. Villalón, Ph.D.**

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Director Office of Technology Licensing

**David Day**

Location:     Office of Technology Licensing  
                  University of Florida  
                  Gainesville, FL

#### **ORGANIZATIONAL CHARTS**

- University (Appendix 1, attachment 1)
- Office of the Vice President of Research (Appendix 1, attachment 2)
- Environmental Health and Safety (Appendix 1, attachment 3)
- Purchasing Services and Asset Management (Appendix 1, attachment 4)
- Office of Internal Audit (Appendix 1, attachment 5)
- Office of the Vice President and General Counsel (Appendix 1, attachment 6)
- Corporate Export Administration (Appendix 1, attachment 7)
- Operating Division Export Administration (Appendix 1, attachment 8)

#### **TRAINING AND EDUCATION**

UF has implemented through DRC a 3-pronged approach to export control training for Faculty and Staff. The first prong consists of communications to the entire UF community of faculty, staff and those students who participate in UF research or work activities. This is provided via the export control training available on a request basis to labs, departments, colleges, and

other interested groups. To further complement these training sessions, the Vice President for Research and the DRC have issued a number of documents (i.e., directive/training memorandum, Fundamentals of Export Controls Training Outline and foreign collaboration and travel screening form) developed by the DRC and/or the Office of the Vice President and General Counsel with instructions for each unit to distribute these to all faculty, staff and students involved in research or working at UF. The second avenue of training is small group and one-on-one training required for Faculty and Staff involved in projects subject to export controls. DRC has developed a web page that includes several informational links and a web based PowerPoint training tool available to all employees as well as the export control annual review on-line module through collaboration with Human Resources.

Additionally, Purchasing Services, Asset Management, and the Biosafety Office of Environmental Health and Safety have added export controls sections to their standard training sessions.

### **IDENTIFICATION, RECEIPT AND TRACKING OF EC ITEMS/TECHNICAL DATA**

There are several divisions, offices and/or departments at the University of Florida which are involved in the identification of and accounting for controlled items and technical data.

**DIVISION OF RESEARCH COMPLIANCE (DRC)** reviews the scope of work from research project submissions, awards and contracts for export control related issues or materials. If this initial review reveals items of concern an Export Control Checklist is completed and/or discussions with the Principal Investigator (PI) are initiated to make further determinations as to the involvement of export controls. DRC reviews and maintains in the award files copies of the proposals, research grants, contracts, confidentiality agreements and other agreements, as applicable, that may impact the export control review and determination. Additionally, DRC will further the export control review and license determination with the PI via completion of the Fundamental Research Determination Checklist, development of a Technology Control plan and/or interpretation of any EAR/ITAR export license requirement and associated documents, as applicable, pertaining to the project/research.

Additionally, DRC is responsible for determining the need for licenses and submitting applications. When chemicals or biological materials are involved, DRC enlists EHS.

**ENVIRONMENTAL HEALTH AND SAFETY (EHS)** maintains database of faculty and staff that work with biological agents, chemicals and other hazardous materials. EHS has also developed working procedures for biohazards, chemicals and other hazardous materials. Further, EHS has notified Principal Investigators (PIs) and Lab Managers who are registered to work with EAR or ITAR controlled materials and/or related technical data, that security of such materials and data must be maintained to prevent unauthorized exports or deemed exports. PIs and Lab Managers registered to work with EAR or ITAR controlled materials and data will be instructed to contact DRC to determine if transfer to non-US persons (non-US citizens and/or non-permanent residents) may be restricted or require an export license. EHS has also incorporated

an export control section into their training on Shipping and Transport of hazardous materials provided to those individuals at the University that ship certain biological, nuclear and/or chemical materials (EHS Export Control Information Extracted from Shipping and Transport Class (Attachment C)) and affiliated list of biological items controlled for export under EAR and ITAR (EHS List of Biological Agents Controlled under EAR (Attachment D)). Chemicals and biological agents are subject to many regulations and all applicable regulations must be complied with.

**PURCHASING SERVICES (PS)** has initiated discussions with vendors to provide the Export Compliance Control Number (ECCN) or U.S. Munitions List (USML) category, if known, at time of shipment. PS has also implemented a policy requiring all purchases exceeding \$75,000 require as part of the solicitation process the inclusion of the ECCN or USML category, if applicable. Further, the following export compliance in PS has been implemented:

1. Currently, PS requires the ECCN or USML category for equipment purchases above \$75,000. The University's bid level is \$75,000 and for those procurements, either through sole source certifications, DRC exemptions, or public solicitations, PS asks the vendors to provide the ECCN or USML category, to put on the purchase orders. (see attached sole source certification form).
2. In the PS monthly 'Introduction to Purchasing' and 'Purchasing 101' training classes PS talks about the ECCN and USML category requirements and provides in the handouts the links to DRC for more information.

Here is portion from the handout:

- ☐ What is an ECCN?
  - ECCN = Export Compliance Control Number
  - Reporting requirement for property
  - An alpha-numeric classification code used by the Department of Commerce for export control purposes. The ECCN is used to help determine if access to a particular item should be restricted or if a special license will be required before the item can be transported to a foreign country. Vendors/manufacturers can supply the ECCN.
- ☐ How will the ECCN effect your department?
  - When purchasing new scientific or technical equipment the ECCN should be requested from the manufacturer and included in the description or comment field.
  - ECCN will be required on any property item before it can be transported outside the US. DRC will use the ECCN to help determine if a property item will require limited access and will contact the department when that determination is made.
  - Anyone traveling outside the US with a laptop should be aware of the information contained on the laptop. DRC should be contacted if there are any concerns that the data or software contained on a computer could be subject to export controls.

- ❑ For more information on export controls as they relate to UF:
  - [http://research.ufl.edu/faculty-and-staff/research-compliance/export\\_controls.html](http://research.ufl.edu/faculty-and-staff/research-compliance/export_controls.html)

**ASSET MANAGEMENT (AM)** uses the Asset Management module of the PeopleSoft accounting system to track all third party property and all University property over \$1,000. Included in this tracking system is a place holder for the ECCN or USML, if applicable and known. The specific steps to be taken by asset management in respect to complying with US export control rules and regulations are as follows:

#### **ASSET MANAGEMENT ROLES TO ASSIST WITH EXPORT COMPLIANCE**

1. For all equipment residing off campus including laptop computers that are prone to movement, each department is required to complete an “Off Campus Certification Letter” (Attachment E). This letter includes the asset’s physical location and the ECCN code for the equipment. The ECCN code and the location of the asset are recorded in AM accounting system. Whenever assets are located outside the U.S., AM reviews the location and the equipment’s ECCN code or USML category to determine if export issues may exist. Any potential issues are referred to DRC for further investigation.
2. AM offers monthly classes to the campus community. Included in the classes is information on export controls. The class participants are also provided additional resources (such as DRC’s web site) for further reading.
3. AM requests departments to provide ECCN numbers or USML categories on all new acquisitions. As those ECCN numbers and/or USML categories are received, AM updates the accounting records with this number.
4. Recently AM worked with UF Bridges to activate the manufacturer field for each asset in the accounting system. This allows AM to produce lists of assets by manufacturer. With the University PS Department’s assistance, AM requests ECCN numbers directly from manufacturers. This is currently being done for the major scientific and technical manufacturers.

**VICE PRESIDENT AND GENERAL COUNSEL** acts in an advisory role regarding management of export controls as they pertain to the University. If the situation arises where counsel will need to be involved, the GC’s office will be responsible for determining whether the matter can be resolved internally or if external counsel will need to be engaged. It will be GC’s responsibility to retain any such external counsel.

#### **RE-EXPORTS RETRANSFERS**

Each time a controlled item or related information is provided to a non U.S. person under a license, exemption, exclusion or other U.S. Government authorization, the person/entity

receiving the item and/or associated information is notified in writing that said item/information is controlled and cannot be further exported or transferred without first obtaining U.S. Government authorization. Additionally, our standard Technology Control Plan includes a Non-Disclosure Agreement attachment that must be signed by all persons involved in the controlled project. This attachment puts the persons involved in the project on notice that they cannot further export or transfer the information they received on the project to a non US person without first obtaining the appropriate approvals.

## **IDENTIFICATION OF ITAR/EAR CONTROLLED PROJECTS**

### **REVIEW PROCEDURES**

**DRC** has oversight and approval of all licensing under export control laws (with the exception of physical exports of biologics, chemicals and explosives out of the United States or OFAC travel related licensing). Licenses for the physical exports of biologics, chemicals and explosives out of the United States are handled by EHS with copies to DRC on any documentation. OFAC Travel related licensing is handled by the UF International Center (UFIC). DRC also makes determinations relating to the export control status of new technologies and materials resulting from university research when an invention disclosure or a work disclosure has been submitted to the Office of Technology Licensing.

**Division of Sponsored Programs (DSP)** via the Research Administrator (Administrator) assigned to a project will review at the time of award all grant and solicitations, proposals, confidentiality agreements, awards, etc. for the following:

- Restrictions on publishing research results
- Restrictions on foreign nationals from performing or accessing research results
- Restrictions on deliverables or results from being disclosed or delivered to any country or individuals
- Physical items being shipped overseas
- Verification that the project does not consist of basic or applied research
- The research effort is being conducted outside of the United States
- Embargoed/sanctioned countries and/or entities involved
- Scope/Agreement/Solicitation references weapons, select agents (aka highly pathogenic/toxic biologics), pathogens, toxins, bacteria, military systems, missiles, satellites, space related technologies, infrared, night vision, inertial measurement units (IMU), Global Positioning System (GPS), High Performance Computers (HPC), Astronomical Instruments (build/design main issue), armor, weapons of mass destruction, detectors, sensors, lasers, directed energy, trajectory, radars, cloaking,

encryption, unmanned aerial vehicles (UAV), autonomous underwater vehicles (AUV), autonomous ground vehicles, optics, etc.

- Requirement to use third-party information that is subject to nondisclosure obligations
- Presence of export controlled items, data, or technology
- Other Red Flags are identified

Upon completion of review the Administrator will consult the DRC to so that the final determination on whether or not the effort is controlled can be made. determine if further steps need to be taken.

**Environmental Health and Safety (EHS)** will review all registered users of materials (biological, chemical, explosive, and radiological), project registration documents and inventories for export controlled items.

**Asset Management (AM)** will review all assets that are to be shipped overseas either on a permanent or temporary basis.

If one or more of the above bullet points apply, then neither the fundamental research exclusion nor publicly available/public domain exclusion apply and DRC/EHS/AM will assist the principal investigator in determining whether a controlled technology/commodity is involved and/or export control regulations apply to the project. DRC, UFIC and EHS are responsible for export licensing under their purview but will involve each other and additional offices as appropriate.

To assist in making this determination, the principal investigator shall work with DRC/EHS/UFIC/AM which may involve completing the following:

- Export Control Checklist (See Attachment F);
- DRC Fundamental Research Determination Checklist (see Attachment G); and,
- Visual Compliance web based software program [http://research.ufl.edu/faculty-and-staff/research-compliance/export\\_control/tools/visual-compliance.html](http://research.ufl.edu/faculty-and-staff/research-compliance/export_control/tools/visual-compliance.html)

Copies of these forms shall be maintained for five (5) years following their completion.

#### **TECHNOLOGY CONTROL PLAN (TCP)**

If the technology is controlled, a project specific TCP approved by DRC must be developed that addresses the following issues:

- How will the persons working on the project be documented and controlled?

- How will unauthorized persons be restricted from accessing research data and materials?
- What physical and informational security measures will be implemented to prevent access to the project by unauthorized persons?
- Mandatory training and compliance review for faculty and staff working on projects subject to export controls.

The TCP will be developed in conjunction with the Principal Investigator and DRC, as well as EHS and/or GC as necessary. The final document will be reviewed, signed and approved by the Principal Investigator, Department Chair, and Dean as appropriate. Further, all persons working on the project will attend mandatory export control training and sign attachments A & B of the TCP (modified as appropriate).

#### **OBTAINING AN EXPORT LICENSE**

If it is determined that a controlled technology or item is involved and an exclusion or license exemption does not apply; a license is required before the technology or item can be shared, disseminated, or exported out of the U.S.. This requirement applies to both research results as well as tangible items if the results are not covered by Fundamental Research, Public Domain/Publicly Available Information, or other exclusions. The processing time for a license is normally two to four months after the application is submitted. DRC, UFIC or EHS involving AM as necessary, in conjunction with GC, will obtain any necessary ITAR, EAR and/or OFAC licenses.

#### **ADMINISTRATION OF THE TCP**

Administration of the TCP associated with any grant, proposal, or project is the joint responsibility of DRC and the PI/Department as it applies to the release of controlled technical data or items subject to the regulations whether in the U.S. or abroad.

Principal Investigators and department heads are responsible for ensuring that employees in their activities are properly instructed in the handling of classified, export-controlled, or proprietary information and that they have signed the required attachments, prior to involvement in the project, attended mandatory Export Control Training, and are cognizant of their obligations and responsibilities under the Project-specific TCP, as applicable.

#### **RESTRICTED/PROHIBITED EXPORTS AND TRANSFERS (AKA TRANSACTION SCREENING)**

The following screens are performed or coordinated by the DRC, EHS or GC as a procedure in the review of export control issues on campus. UF employs the Visual Compliance ('VC') web service. The VC export control web service screens many U.S. government lists, including:

- Department of Commerce Bureau of Industry and Security (BIS) Denied Persons List
- Department of Commerce BIS Entity List

- Department of Commerce BIS Unverified List
- Department of State Arms Export Control Act Debarred Parties
- Department of State Designated Terrorist Organizations
- Department of State Terrorist Exclusion List (TEL)
- Department of State Nonproliferation Orders: Missile Sanctions, Lethal Military Equipment Sanctions, Chemical and Biological Weapons Sanctions, Nuclear Sanctions
- Department of State International Traffic In Arms Regulations (ITAR) Munitions Export Orders
- Department of Treasury Specially Designated Nationals and Blocked Persons, including Cuba and Merchant Vessels, Iran, Iraq and Merchant Vessels, Sudan Blocked Vessels
- Department of Treasury Specially Designated Terrorist Organizations and Individuals
- Department of Treasury Specially Designated Narcotic Traffickers and Narcotics Kingpins
- Department of Treasury Foreign Narcotics Kingpins
- Department of Treasury Foreign Persons Designated Under the Weapons of Mass Destruction (WMD) Trade Control Regulations
- U.S. Federal Register General Orders
- Optionally, U.S. federal procurement program exclusion and medical program exclusion lists can be scanned by Visual Compliance software simultaneously.
- U.S. General Services Administration (GSA) List of Parties Excluded from Federal Procurement Programs
- U.S. General Services Administration (GSA) List of Parties Excluded from Federal Nonprocurement Programs
- U.S. General Services Administration (GSA) List of Parties Excluded from Federal Reciprocal Programs
- U.S. Office of the Inspector General List of Individuals/Entities Excluded from Federal Health and Medicare Programs

#### DOMESTIC

- Specially Designated Nationals and Blocked Persons (OFAC)
- Federal Bureau of Investigation (FBI) Wanted Fugitives
- FBI Ten Most Wanted Fugitives
- FBI Most Wanted Terrorists
- FBI Hijack Suspects
- FBI Seeking Information
- Food and Drug Administration – Clinical Investigators
- Food and Drug Administration – Debarment List
- Food and Drug Administration – Disqualified and Restricted
- Department of Homeland Security Most Wanted Fugitive Criminal Aliens
- Department of Homeland Security Most Wanted Most Wanted Human Smugglers
- U.S. Marshals Service – Top 15 Most Wanted
- U.S. Marshals Service – Major Fugitive Cases
- U.S. Drug Enforcement Administration – Major International Fugitives

- U.S. Central Command Iraqi SS Most Wanted
- Immigration and Customs Enforcement Most Wanted
- Office of Research Integrity PHS Administrative Actions
- U.S. Postal Inspection Service – Most Wanted
- U.S. Secret Service – Most Wanted
- Bureau of Alcohol, Tobacco, Firearms, and Explosives Most Wanted
- Air Force Office of Special Investigations – Top Ten Fugitives
- Naval Criminal Investigation Service – Wanted Fugitives

#### INTERNATIONAL

- Japan Foreign End-Users of Concern
- Canada Public Safety and Emergency Preparedness Listed Entities
- Politically Exposed Persons in Money Laundering Risk Countries (CIA)
- Australia Department of Foreign Affairs and Trade Consolidated List
- European Union (EU) Council Regulation on Restrictive Measures to Combat Terrorism [Designated Persons, Groups, and Entities]
- Interpol Recently Wanted
- United Nations (UN) Consolidated List
- Bank of England Consolidated List of Financial Sanctions Targets in the U.K.
- World Bank Listing of Ineligible Firms
- OSFI Consolidated List – Entities
- OSFI Consolidated List – Individuals
- OSFI Warning List
- OCC List of Unauthorized Banks
- Royal Canadian Mounted Police (RCMP) – Wanted

Visual Compliance Restricted Party Screening software also includes Risk Country alerts for any problem countries named in the search, including foreign-produced, direct product re-exports and transshipment country prohibitions among others.

- EAR Part 736 General Prohibition Three (Foreign-produced direct product re-exports)
- EAR Part 736 General Prohibition Eight (In transit shipments and items to be unladen from vessels or aircraft)
- EAR Part 746, Embargoes and Other Special Controls U.S. Department of Commerce
- EAR Country Group E:1, Terrorist Supporting Countries ("T-7 Countries")
- Office of Foreign Assets Control (OFAC) Sanctions
- United Nations (UN) Sanctions
- U.S. Department of State, List of State Sponsors of Terrorism
- Department of State U.S. Arms Embargoes
- Export destination for defense articles and defense services prohibited under the ITAR (126.1)
- BIS India and Pakistan Export Restrictions, including Atomic Energy blocked entities

- Exports and Reexports to Afghanistan Restrictions
- Countries that may require participation in, or cooperation with, an international boycott [Section 999(b)(3) of the Internal Revenue Code of 1986]

## **TRAVEL AND PRESENTATION PROCEDURES FOR SANCTIONED/EMBARGOED ENTITIES**

Each employee is personally responsible for complying with travel, business, and export control restrictions relating to countries and individuals sanctioned by the United States in regulations, laws, and executive orders enforced by OFAC.

## **RECORDKEEPING**

The University is subject to several regulatory recordkeeping requirements related to its export activities. The ITAR and the EAR require that records be kept reflecting the export, re-export, and temporary import of defense articles, defense services, dual-use commodities and related technologies. This section outlines requirements for complying with the recordkeeping regulations. Types of records to be maintained will depend on the University's activities and how information or items are controlled for export. The retention period is five years from the date of export, re-export, or any other termination of the transaction.

### **TRANSACTIONS SUBJECT TO RECORDKEEPING REQUIREMENTS**

The following types of transactions are subject to recordkeeping requirements:

- Exports of controlled commodities, software or technical data from the United States or by U.S. persons;
- Re-exports or transshipments of controlled products or technical data originally exported from the United States or by U.S. persons;
- Any other transaction subject to export control, whether the export or re-export actually occurs;
- Exports, where it appears that a person in another foreign country has an interest in the transaction or that the commodity or technical data will be exported, transshipped, or diverted.
- Negotiations in connection with an export

### **RECORDS REQUIRED TO BE KEPT**

All documents related to export activities should be retained, whether they involve the administrative processes associated with obtaining licenses or other approvals, or the implementation of a license or approval, which has already been approved. It is the

University's policy that the following export documents and related supporting materials be retained by the University:

- Records of the compliance program, implementation efforts, and the steps to discover and rectify inadequacies
  - Such steps may mitigate the consequences of unintentional violations
  - Encourage prompt disclosure of potential violations to DRC or GC for a knowledgeable and timely response
  - Including appropriate self-disclosure to the appropriate agency to mitigate penalties working with counsel.
- Technology Control Plan
- Classification decisions issued by the appropriate government agency;
- License applications, and all supporting documents;
- Issued licenses with limitations or provisos, if any;
- International Import Certificates and applications therefore;
- Delivery Verification or similar evidence of delivery;
- Automated Export System ('AES');
- Receipts, bills of lading and other documents related to export clearance;
- Reports of boycott requests and all documents relating to the requests;
- Any other document issued by the U.S. Government that demonstrates that an export occurred;
- Applications for registration;
- Purchase orders;
- Foreign import certificates;
- Airway bills;
- Non-transfer and use certificates;
- Memoranda, notes, correspondence, contracts, invitations to bid, books of account, financial records, and any other written matter pertaining to an export;

#### PERIOD OF RETENTION

Export documents must be retained for a minimum period of five (5) years, calculated from one of the following points in time:

1. Export records under the EAR (*See* §762.6) must be retained for five (5) years from the *latest* of the following times:
  - The date the export from the U.S. occurs;
  - The date of any known re-export, transshipment, or diversion of such item;

- The date of any termination of the transaction, whether contractual, legal, formally in writing or by any other means, or;
  - In the case of records of or pertaining to transactions involving restrictive trade practices or boycotts, the date the regulated person receives the boycott-related request.
2. Records relating to exports under the ITAR must be maintained for five (5) years from:
- The expiration of the license or other approval to which the documentation relates;
  - The date the license or other authorization is exhausted or used completely; or
  - The date the license or other authorization is suspended, revoked, or no longer valid.

#### **IDENTIFYING RESPONSIBLE RECORDKEEPING FUNCTIONS**

The University will maintain the records, either originals or back-ups, through DRC. This is generally (and preferably) done by providing original documents to DRC, but may be done by keeping originals locally and providing copies to DRC upon request.

#### **ACCESSIBILITY**

Records must be kept in a manner which facilitates the ability to retrieve the records for any purpose and to review the records during internal or U.S. Government audits. In the event any request for documents is received from a United States Government agency or representative, immediately contact DRC for appropriate and timely response. Faculty and Staff are responsible for cooperating with DRC and the GC's Office.

In the event that United States Government authorities inquiring about export-related items, technology, or information appear at any University facility, immediately contact DRC and the Office of the GC. Collect and retain any official United States Government documents, whether subpoenas or other access requests, and forward them immediately to GC with a copy to DRC. Make sure the authorities know that UF is represented by counsel who will oversee an appropriate and timely response and proceed in accordance with instructions from counsel.

University Personnel may not, under any circumstances, interfere with or impede any federal law enforcement officer performing his/her official duties.

#### **INTERNAL MONITORING/AUDITS**

Each project which has a Technology Control Plan (TCP) will be reviewed on an annual basis. The PI, key persons and all labs/offices/etc. associated with the TCP will be visited and reviewed

for compliance with the TCP. Any deficiencies will be noted and corrected. If there are substantial deficiencies the project may be halted pending correction of the deficiencies.

## HANDLING SUSPECTED VIOLATIONS

### MANAGEMENT COMMITMENT TO REPORTING

Management is committed to reporting any known violations related to export controls. UF has implemented various avenues for the reporting of such violations and will proactively review and report through the GC's office and DRC any suspected violation as deemed necessary under current Federal laws and regulations.

### Avenues for Reporting

Violations relating to export controls may be reported through the UF Compliance Hotline and may be done by telephone or with the use of a web form. A person can remain anonymous regardless of which method is used. The link to the hotline and the procedures is <http://www.compliance.ufl.edu/>. Alternatively, a violation may be reported directly to DRC or the GC.

Once an alleged violation has been reported, DRC, GC, and other parties as required, will review the facts of the case and make a determination regarding the validity of the allegation. If the allegation merits further fact finding and investigation, the University will undertake said investigation and, when circumstances warrant, will notify the appropriate U.S. Government entity.

## DESCRIPTION OF SPECIFIC PENALTIES FOR NON-COMPLIANCE

### EXTERNAL

#### *EAR*

Criminal (willful) violations: Up to the greater of \$1 million or 5x value of the export for a university or company, Up to \$1 million per violation for individuals and/or up to 20 years in prison

Civil violations: Up to \$250k or 2x the value of the transaction whichever is greater per violation for individuals, a university or company

#### *ITAR*

Criminal (willful) violations: Up to \$1 million/violation for a university or company, Up to \$1 million per violation for individuals and/or up to 20 years in prison.

Civil violations: Up to \$500k per violation for individuals, a university or company

### OFAC

Criminal (willful) violations: Maximum fine of \$1 million for individuals (including corporate officers) and/or 20 years imprisonment.

Civil penalties: Maximum fine of \$250k or 2x the value of the transaction whichever is greater per violation.

### INTERNAL DISCIPLINARY MEASURES

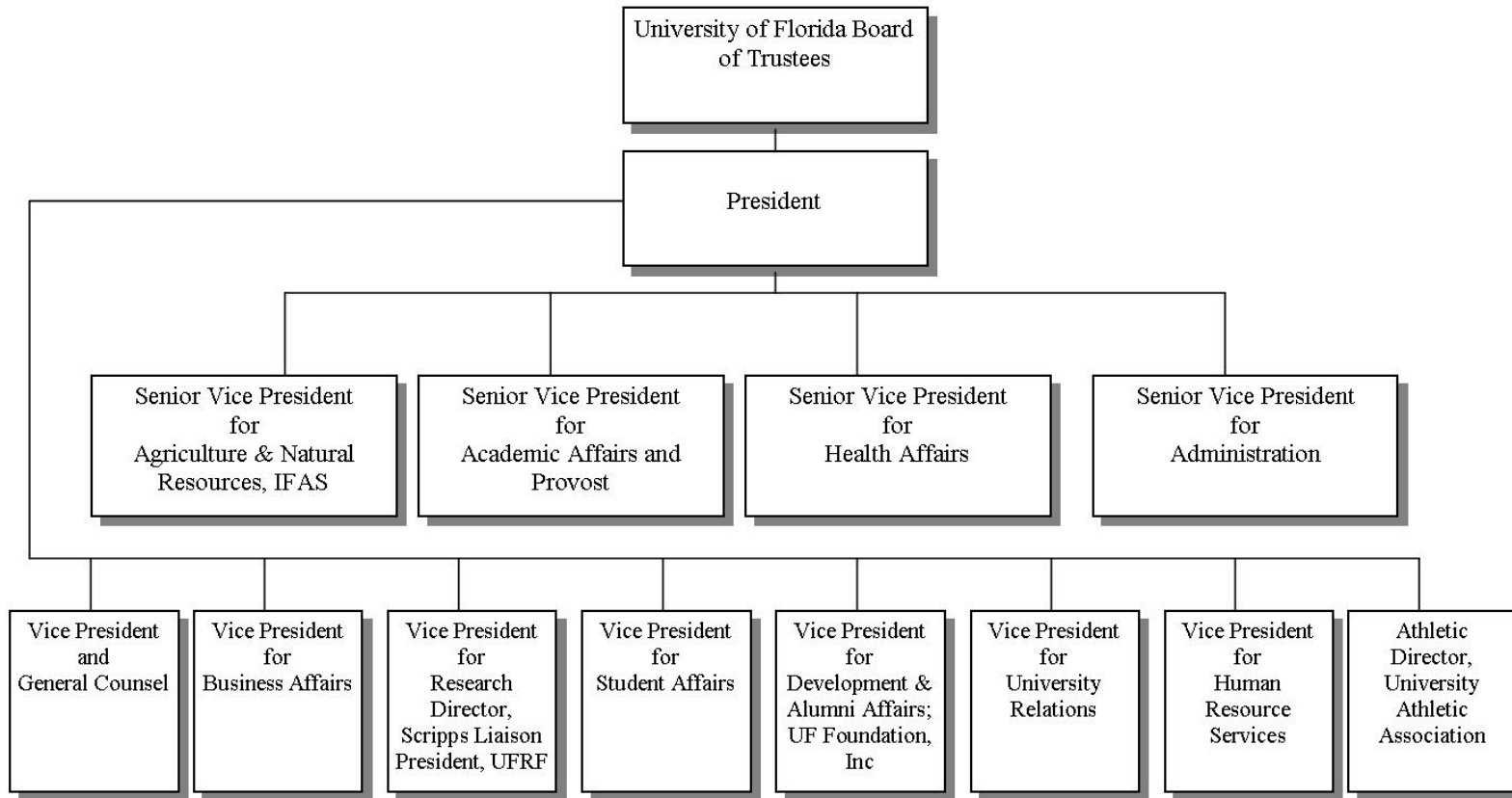
An employee's violation of law, an employee's failure to report a known export control issue or failure to comply with University export control procedures, or an employee's failing to follow any conditions imposed pursuant to export control regulations or licenses are grounds for disciplinary action. Examples of sanctions are: disallowance or limiting research activities, changes in assignment, reduction in pay, demotion, written reprimand, suspension without pay, and termination for cause.

### AUDITS / PERIODIC REVIEW OF EXPORT COMPLIANCE PROGRAM

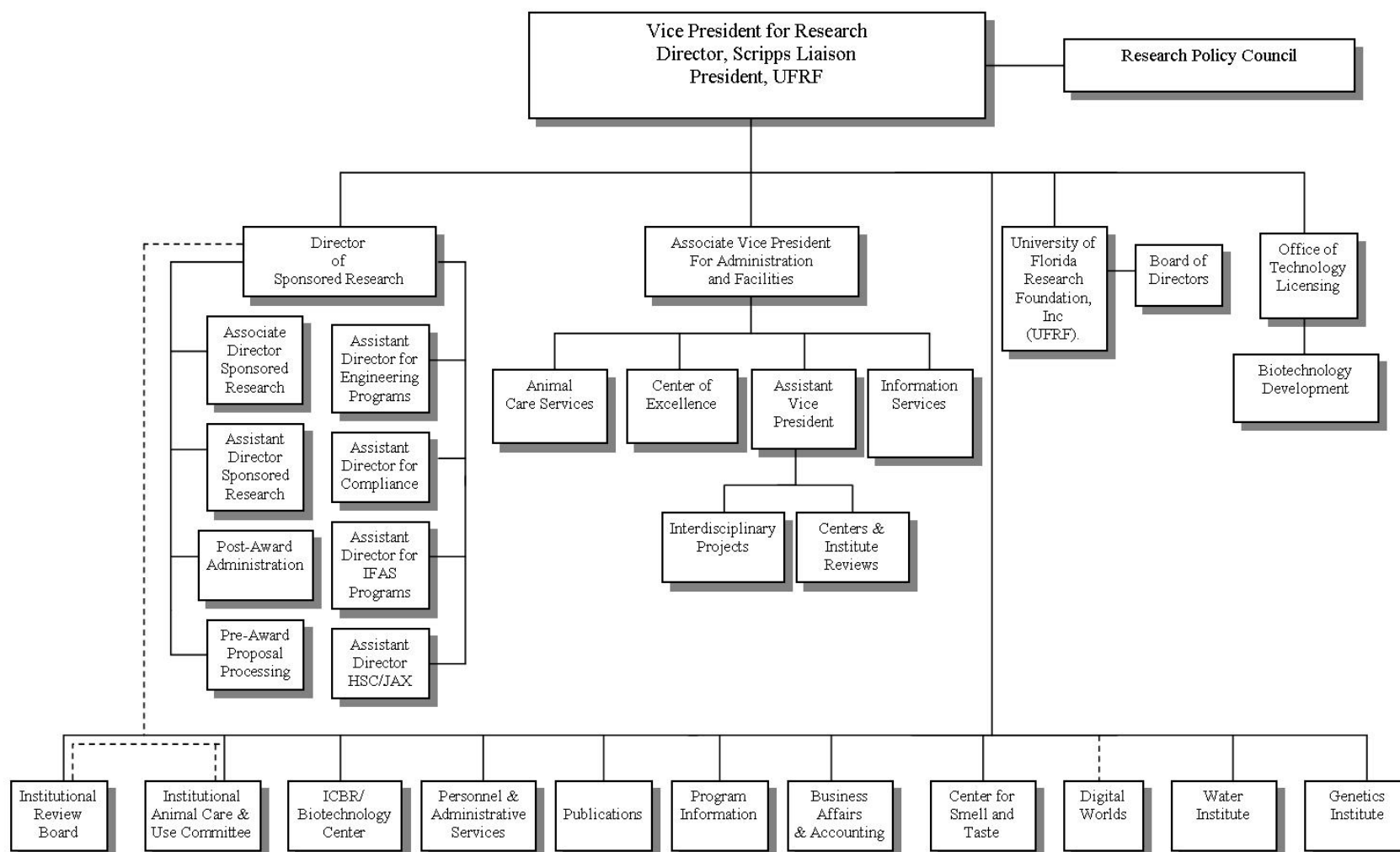
Office of Internal Audit will conduct a limited review of the export control program on an annual basis with a **detailed review conducted every 3 to 4 years** to ensure that UFis in compliance with the Federal rules and regulations related to export controls. Furthermore, the Office of Internal Audit will assist DRC, EHS and/or GC, upon request, in investigations related to potential export control violations.

The Export Control Compliance Review Team will evaluate and report to the Vice President for Research via the Empowered Official on an annual basis the effectiveness of the export control compliance program. The expected outcome of this evaluation will be an analysis of the areas of greatest opportunity for improvement to increase the efficacy of the program and to better ensure conformity to the Federal rules and regulations.

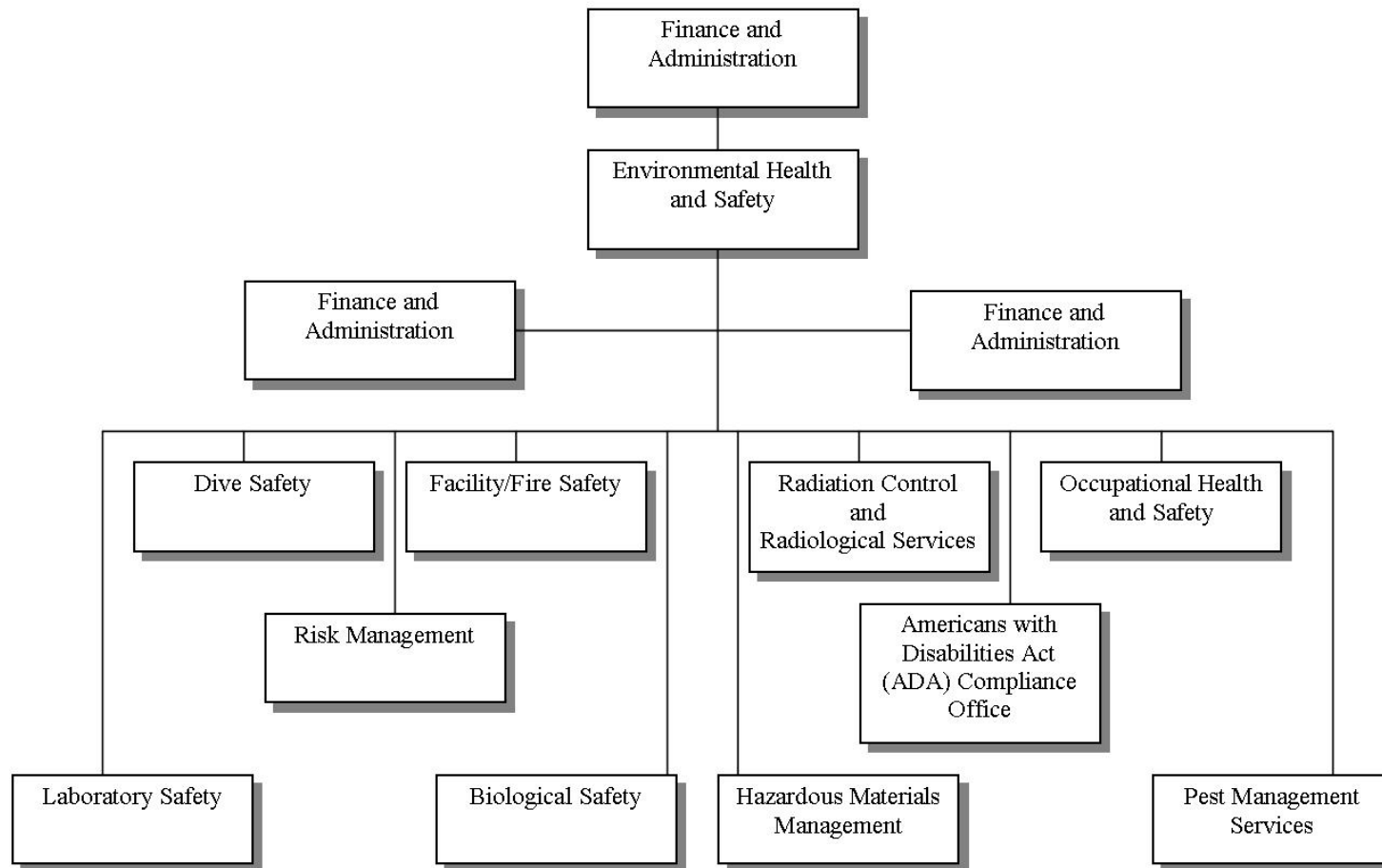
## University of Florida



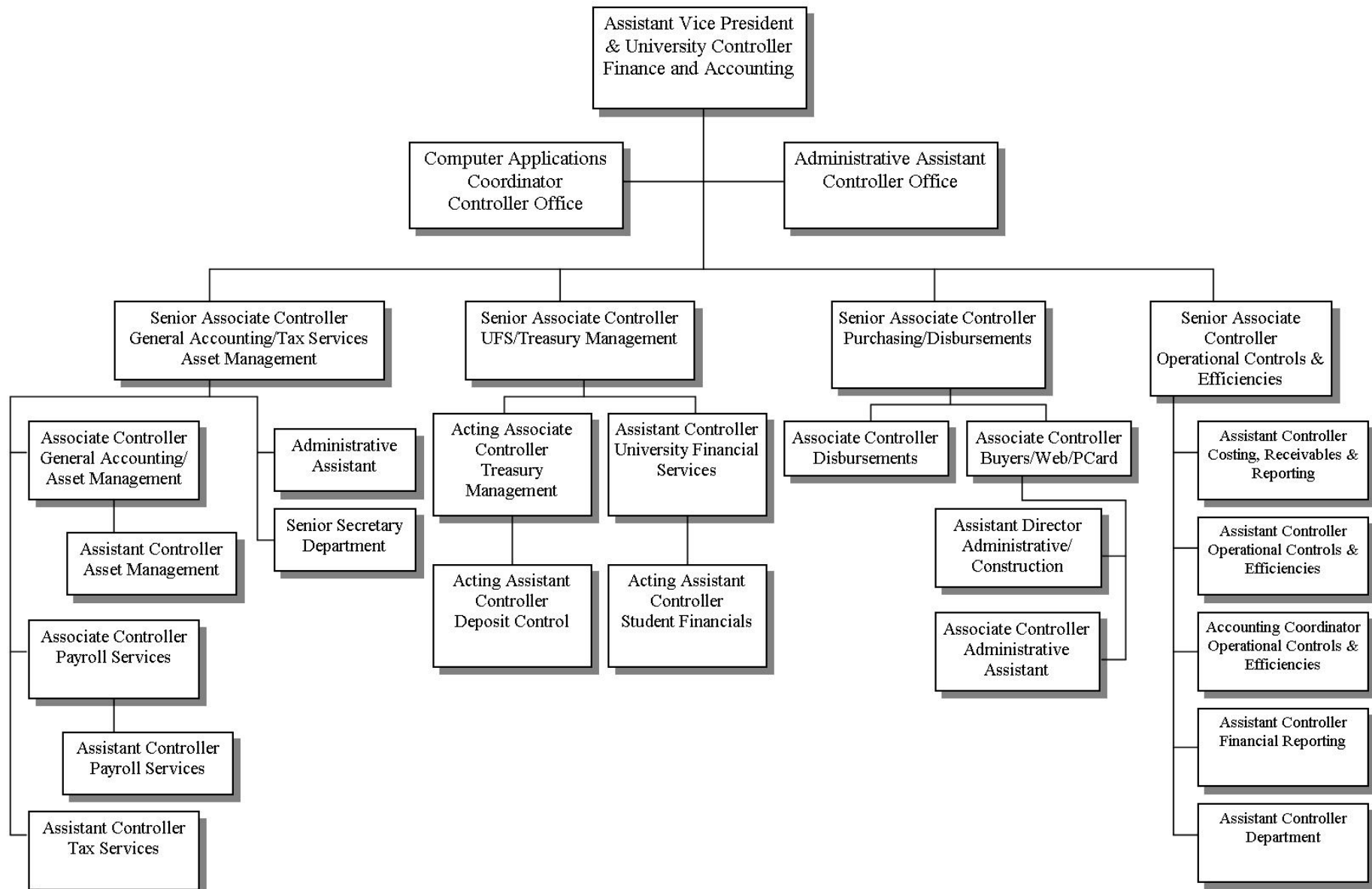
## OFFICE OF THE VICE PRESIDENT FOR RESEARCH



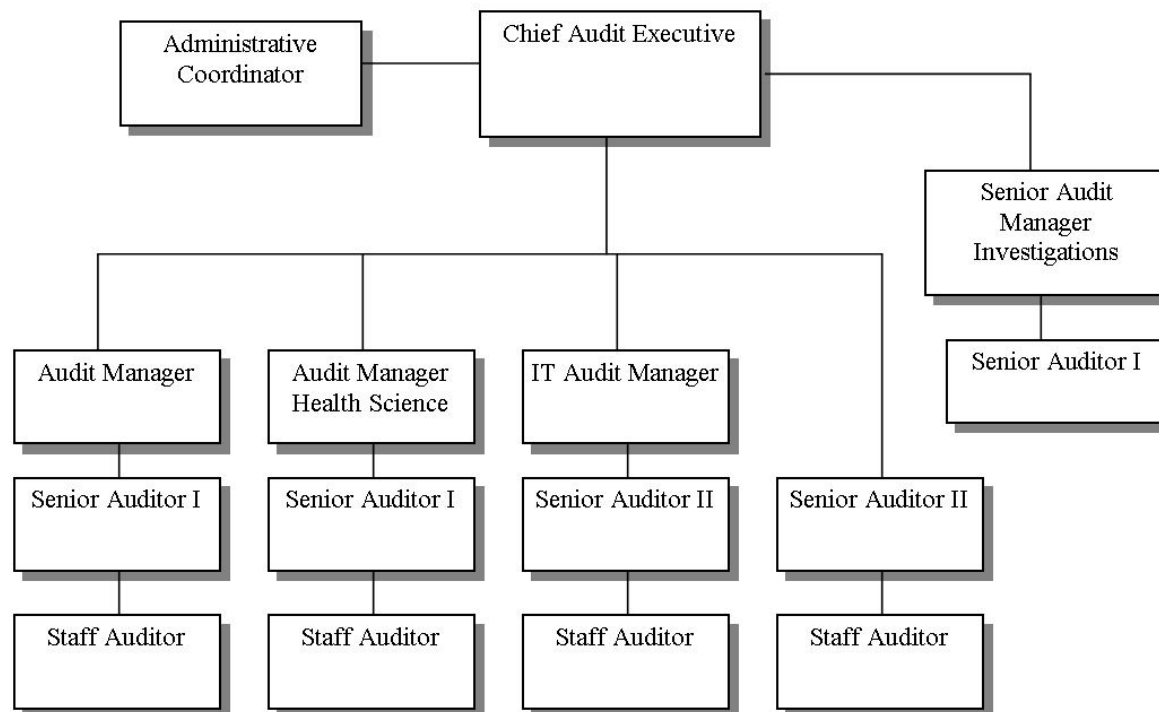
## Environmental Health and Safety



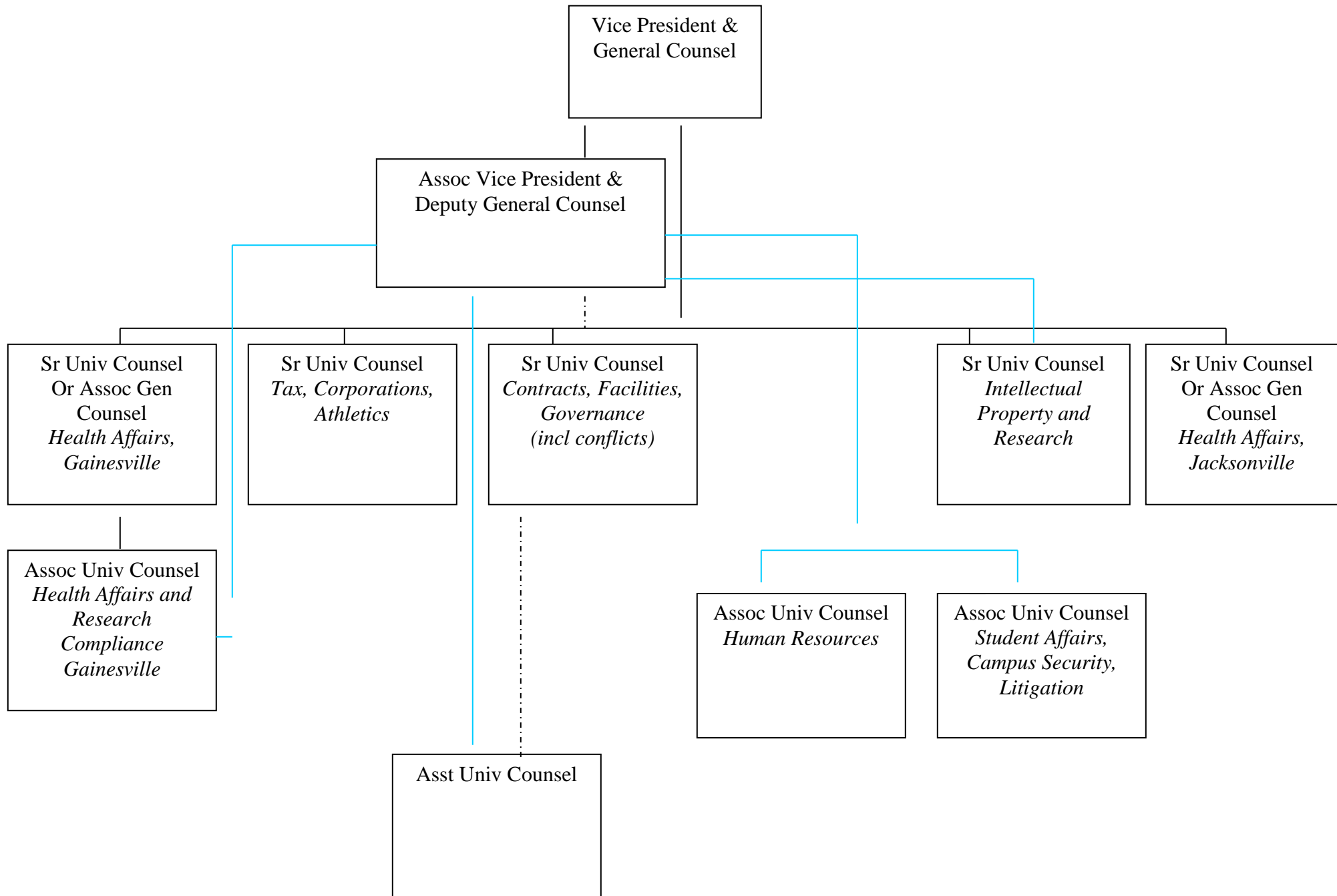
## Finance and Accounting Controller's Office



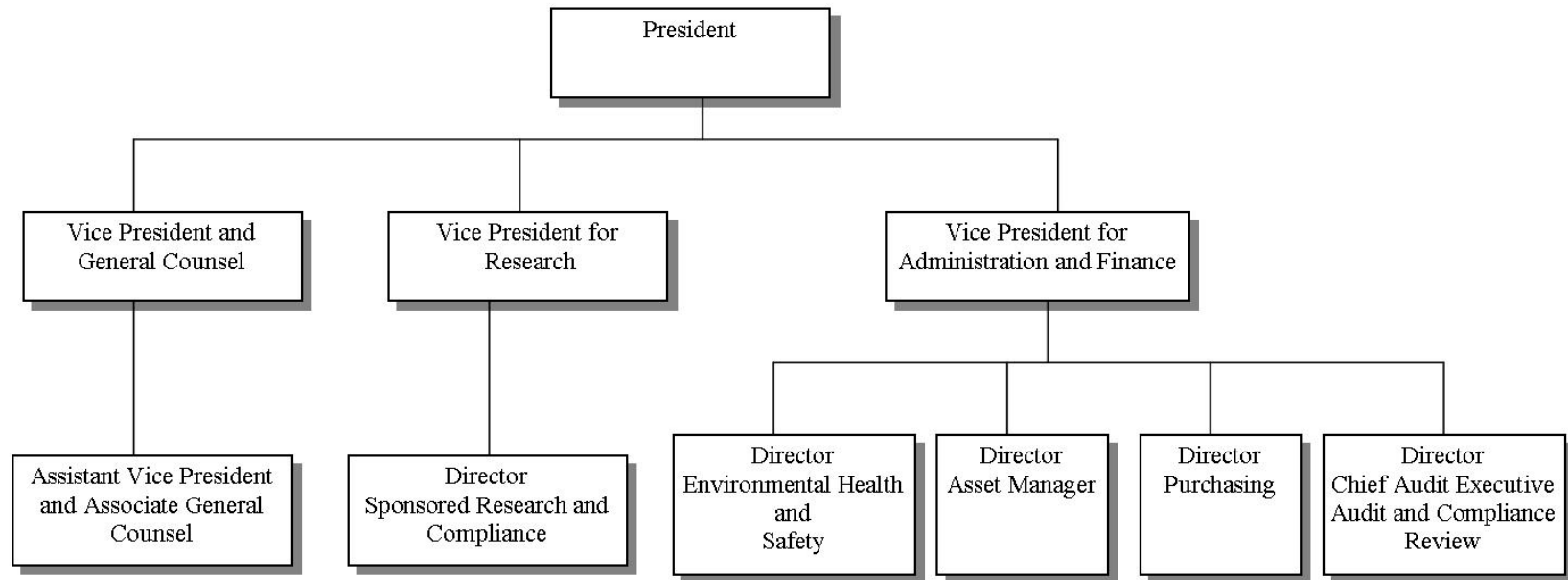
## Audit and Compliance



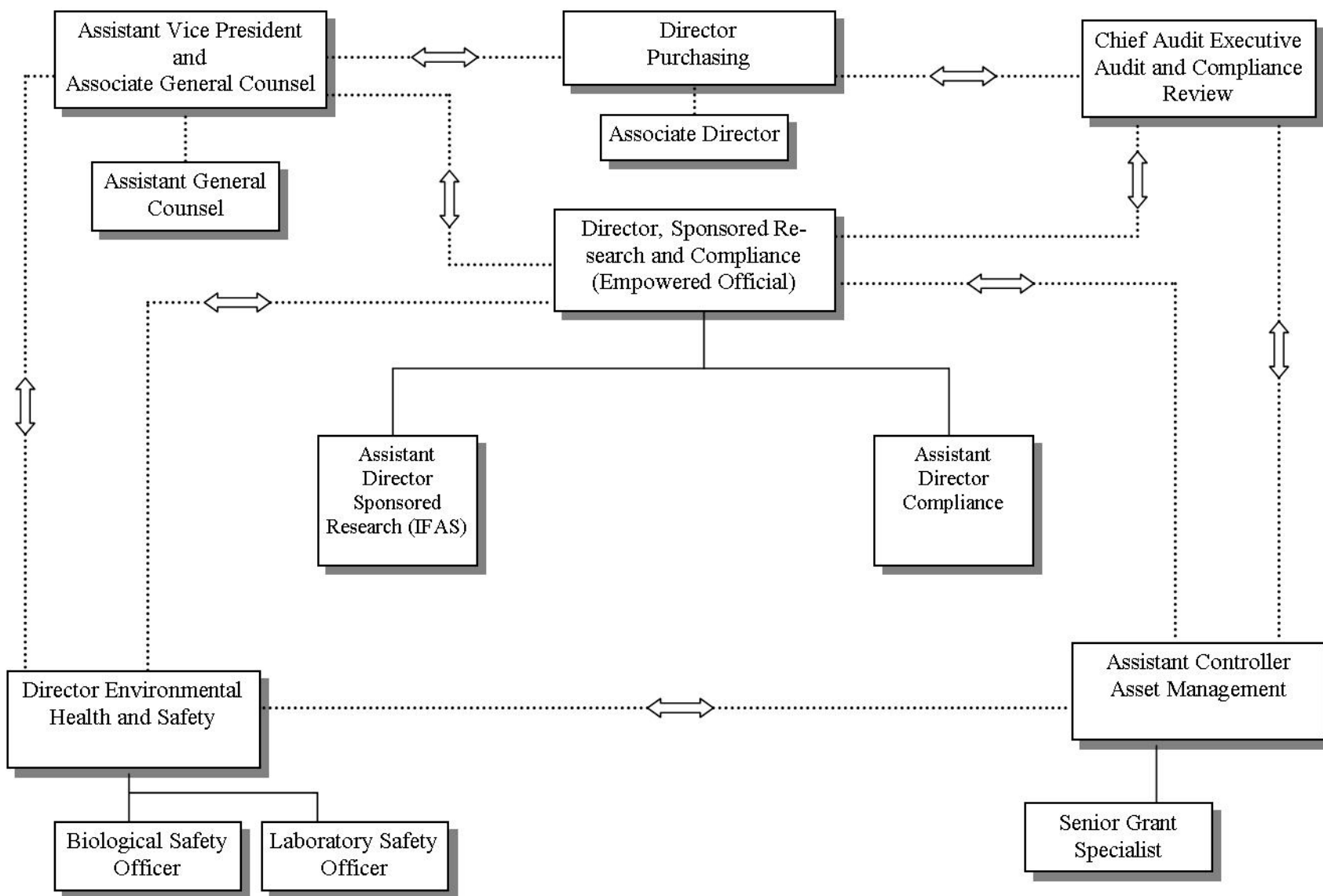
ORGANIZATIONAL CHART  
OFFICE OF THE VICE PRESIDENT AND GENERAL COUNSEL



## Corporate Export Administration



## Operating Division Export Administration



**The University of Florida Memoranda to:**

**Deans, Directors, and Department Chairs**

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**2007 - 2008**

**5. May**

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**7. University's Policies Regarding Compliance With U.S. Export Controls: Responsibilities of Faculty, Staff and Students**

5/19/2008

Dr. Winfred M. Phillips, Vice President for Research

This memorandum updates the University of Florida's policies on compliance with U.S. export control laws and regulations and reminds the University community of the importance of these federal requirements, which apply to individuals (e.g., faculty, staff and students), as well as to the University itself. Violations are subject to significant criminal and civil sanctions (including the potential of prison and fines for individuals and fines for the institution), loss of federal contracting privileges, loss of export privileges, and damage to reputation. **Please carefully read and distribute this memorandum to your faculty and staff; as well as any students engaged in research or work for the University.** A copy is posted on the DRC web page.

*Each Individual Is Responsible for Knowing Export Controls Parameters, Seeking Guidance From the DRC When Export Controls May Apply, Obtaining Licenses Through DRC, and Complying With Applicable Controls.*

The University and applicable federal law require compliance with export controls and each individual in the University community is responsible for compliance. Attached is an outline, *"Fundamentals of Export Controls and Trade Sanctions and Embargoes For Research Universities"* and a foreign collaboration and travel screening document, *"Foreign Collaboration Or Travel Screening—For Compliance With U.S. Export Controls (EAR/ITAR), Trade Sanctions/Embargoes (OFAC) And Anti-Terrorism Laws."* Faculty and staff; as well as any students who are engaged in research or work at the University are responsible for knowing export control parameters and the University's policies on compliance with export controls. **Please review both the attached outline and the foreign collaboration and travel screening document, which are designed to help you know what an "export" of controlled items and information abroad is; what a "deemed export" of controlled information in the U.S. is; when exclusions from controls apply; and when controls may apply and you must seek guidance from the DRC to ensure that controls are satisfied.** Refer also to the University's Export Control Compliance Program Guidelines which will be posted on the DRC website [[http://research.ufl.edu/faculty-and-staff/compliance/export\\_control.html](http://research.ufl.edu/faculty-and-staff/compliance/export_control.html)]. Expert assistance is available from DRC or GC. **All export and deemed export licenses must**

**be obtained through DRC, which also must approve related security plans.**

If controls apply and an exclusion or license exemption does not apply, a license must be obtained from the Commerce or State Department (depending on which export regime applies) *before any export*—i.e., before any controlled items (such as controlled equipment, software code, chemicals and biological materials) or controlled technical information is sent, disclosed or communicated in any medium (e.g., physically, orally, electronically, in writing, or visually) *abroad to anyone* (even a U.S. citizen) who is *located in a country to which controls apply*—and before any export to any *foreign national of a country to which the controls apply, wherever that foreign national is located abroad*.

Any controlled items and technical information must not be transferred abroad without a license to countries or individuals who are nationals of countries to which the controls apply. Research results (information), if developed on campus in the U.S. under the Fundamental Research exclusion or made publicly available or put in the public domain under these exclusions, may be sent abroad without a license.

However, these exclusions apply to information, not to items. Before sending equipment, software code, chemicals, biological materials or other items abroad, contact DRC to determine whether the item is controlled. **If the item is controlled, you must not transfer the item or related controlled technical information abroad to any country or national of a country to which the controls apply without both DRC's approval and a license obtained through DRC permitting the export. If a license is not obtainable, the item and related controlled technical information may not be exported.**

Similarly, if controls apply and an exclusion or license exemption does not apply, a license must be obtained **through DRC** *before any deemed export* of controlled technical *information* is communicated or disclosed in any medium (even visually) in the U.S. (including on campus) to a foreign national of a country to which the controls apply.

**No Publication or Dissemination Restrictions Without Prior Approval and Export Compliance.**

Much of the research and teaching on campus qualifies for exclusions from controls or exemptions from licensing. These exclusions and licensing exemptions apply to certain *information*—but these exclusions and exemptions *do not cover controlled items* (such as controlled equipment, software code, chemicals and biological materials). *All prerequisites for application of the exclusions or exemptions must be satisfied or they offer no protection from controls.* The exclusions allow researchers to work with foreign colleagues, students and visitors on campus without having to get a deemed export license in connection with *information* developed in or arising from on-campus research in the U.S. or *information* that is publicly available or in the public domain via the *specific means* allowed in the regulations. The exclusions and license exemptions also allow such research results to be sent abroad without an export license.

To take advantage of the most commonly used exclusions—the Fundamental Research Exclusion and the Publicly Available/Public Domain Information Exclusion—you must not agree to government, corporation or other third-party *approval* before you disseminate your research results, and you must not agree to limit access to your research (such as by prohibiting foreign national participation). Publication and dissemination restrictions—whether formally part of a research agreement or agreed to by a faculty member informally (even orally) “on the side”—destroy these exclusions from export controls, making otherwise applicable controls apply. Sponsors may have a short period, such as 30-60 days, to *review* (not approve) research results for purposes of pursuing a patent or removing inadvertently included proprietary information without destroying exclusions. However, a requirement to have sponsor or other third party *approval* before publishing or otherwise disseminating research destroys exclusions from controls.

**NOTE: The University depends on the application of exclusions from controls for much of our on-campus research, allowing us to maintain an open, collaborative and international campus. Consequently, anyone who wishes to accept a publication or dissemination/access restriction must have the prior written approval of the Vice President for Research or his designee, the Director of DRC.** This approval ensures that everyone involved understands whether export controls apply and, if so, that a license is obtained, license conditions are met, and appropriate security is in place.

**All Export Licenses Must Be Obtained By the Director Of DRC and No Controlled Information May Be Obtained On Campus Without a DRC-Approved Security Plan.**

The DRC Director is the University’s empowered official for export controls. **All export and deemed export license applications must be obtained by the Director of DRC, who will sign the application.** DRC will enlist assistance from the Environmental Health and Safety Office in connection with license applications for controlled chemicals and biological materials. Individual faculty and staff members, colleges and departments must contact DRC to apply for a license.

If you will be working under a deemed export license on campus, you will have to implement security measures that will require very different ways of working than are typical on a university campus. For example, you will have to comply with all license conditions and control access to your laboratory if controlled information is located there. These requirements may prevent certain colleagues and students from participating and may limit publication and dissemination of research results. This is why the University strongly favors qualifying for exclusions from controls and must consider with you very carefully whether to approve the conduct of controlled activities.

DRC will help you assess the burdens of obtaining a license and must sign off on seeking a license as well as on the security plan that will govern storage, use and transfer of export controlled information in the U.S. and abroad, as well as transfer of items abroad.

**Pay Attention To Computer Security and Export Controls.**

One area that has caused unintended compliance problems is computer security. If you receive export-controlled information, you are responsible for having a DRC-approved security plan in place to safeguard the information from unauthorized access. **Export controlled information should never be stored on a computer that is connected to the University intranet or to the Internet.** Only individuals who are permitted access to the controlled information in compliance with applicable controls should be able to access the computer. A plan should be in place to secure the computer and to address what happens if the computer fails and the information must be transferred to another computer. *It is critical that, even in an emergency, the information is safeguarded.*

**Beware of Existing Controlled Information and Items Provided By Third Parties**

Existing technical information and equipment and other items provided to you by a government agency, corporation or other source may be controlled. Beware if the information is subject to access or dissemination restrictions (such as under a nondisclosure agreement) or information or an item is marked with a notice that export controls apply. (You are responsible for determining whether the information or item is controlled whether or not it is marked.) Whether controls apply must be determined *before* the information or item comes to campus so that appropriate security can be put in place to prevent the transfer of that information in violation of applicable controls and licenses. If export controlled information comes to campus, security measures must prevent foreign nationals (e.g., faculty, staff, students, and visitors) from countries to which the controls apply from having access to the information on campus or elsewhere in the U.S. If you are acquiring equipment or other items—by purchase, loan, rental or other means—you are responsible for working with DRC and Asset Management to determine whether the equipment or item is controlled so that you know what restrictions apply and a license is obtained before the item or related controlled technical information is exported abroad.

**Expert Assistance is Available.**

Export controls involve complicated regulatory regimes. If you understand how to qualify for exclusions from controls and exemptions from licensing, as well as the parameters for when export controls may apply, you will know when to ask the experts for the assistance you need to comply. DRC and GC's Office are available to provide compliance assistance to members of the University community.

If you are concerned that you may have made a mistake or otherwise violated export controls, contact DRC or the GC's Office right away. Appropriate voluntary disclosure to regulatory authorities through DRC and the GC's Office may help to mitigate consequences to the individual and the institution.

DRC and GC will be holding Q&A sessions for anyone with questions concerning this DDD or export controls in general. For more information on attending a Q&A session, please contact

DRC at 352 392-3516.

Thank you for your attention and assistance in this important matter.

Attachments

Fundamentals of Export Controls and Trade Sanctions and Embargoes for Research Universities:

[http://www.admin.ufl.edu/DDD/attach07-08/19May08\\_1.doc](http://www.admin.ufl.edu/DDD/attach07-08/19May08_1.doc)

Foreign Collaboration or Travel Screening-For U.S. Law Compliance:

[http://www.admin.ufl.edu/DDD/attach07-08/19May08\\_2.doc](http://www.admin.ufl.edu/DDD/attach07-08/19May08_2.doc)

## Information and Guidelines United States Export Control Laws\*

### I. Overview

The information provided in this document is designed to help University of Florida faculty and administrators understand the basic requirements of export control laws and to determine whether their research and activities may be subject to these restrictions.

Export control laws prohibit the export of certain items and information, or the export to certain destinations, without a license. The term “export” is defined to include the transmission of goods outside of the United States, as well as the transmission of information by any means to foreign nationals, whether in the U.S. or abroad. Under this expansive definition of “export,” many university activities are *potentially* subject to export controls. Most university activities and research are not subject to them because of the application of one or more exclusions or exemptions. The most important of these is the fundamental research exclusion (see below), which excludes from export control laws basic and applied research in science and engineering *provided* the research is carried out openly and without restrictions on publication or dissemination of research results.

If an exemption or exclusion does not apply, for example because the sponsor has placed limitations on the researcher’s right to publish the results of the research, then it may be necessary for the researcher to obtain a license before allowing foreign nationals to participate in the research, partnering with a foreign company and/or sharing research with foreign nationals. The license application process is lengthy and difficult. Penalties for violations of export control laws are severe, ranging from loss of research contracts and exporting privileges to monetary penalties and/or jail time for the individual violating these regulations.

In order to avoid costly delays or the possibility of violating export control laws, DRC, the Office of GC, and Principal Investigators should conduct a thorough review of research projects and contract provisions to determine whether and, if so how, a particular research project is impacted by those regulations.

Principal Investigators have the following responsibilities:

- ☐ prior to commencing any research, to review and cooperate with DRC to determine whether their research is impacted by the controls or requirements contained within export regulations;
- ☐ to re-evaluate that determination before changing the scope or adding new staff to the project to determine if the changes alter the initial determination; and
- ☐ to make export determinations far enough in advance to obtain an authorization, should one be required.

The University will assist Principal Investigators in assessing the application of such regulations, but primary compliance responsibility rests with the principal investigator of the research. Please refer to the Guidelines in Part III below. If you have questions about how the export regulations apply to specific research, please contact Brandi Boniface, Assistant Director Export Controls at 392-2369, [boniface@ufl.edu](mailto:boniface@ufl.edu).

## II. Definitions

Export control decisions depend on a correct understanding of the following terms. The official regulatory definition should be consulted in specific applications.

- The term **export**, as used in export control regulations, has an expansive meaning. Generally, an export includes: (1) shipment or transmission of covered goods or items out of the United States; (2) release or disclosure, including verbal disclosures or visual inspections, of covered technology, software or technical data to a foreign national anywhere (a "**deemed export**" to the home country of the foreign national); or (3) performing a "defense service" on behalf of or for the benefit of a foreign person anywhere. The official definition of export under the EAR and ITAR should be consulted when determining whether a specific act constitutes an export. Not all exports require a license; however, if a specific technology requires a license for export to a particular country, it will also require a license for release to foreign nationals of that country, including graduate students, unless they meet certain criteria.
- The **Export Administration Regulations (EAR)**, Title 15, sections 730-774 of the Code of Federal Regulations (CFR) are promulgated and implemented by the Department of Commerce to regulate the export of "dual use" items, i.e., items that may serve a military or strategic purpose as well as a commercial purpose. Regulated goods and services are identified on the Commodity Control List (CCL), Title 15 CFR 774, Supp. 1. The official version of the EAR is also available online in the Code of Federal Regulations as provided by the Government Printing Office.
- The **International Traffic in Arms Regulations (ITAR)**, 22 CFR 120-130, are promulgated and implemented by the Department of State to regulate defense articles and services and related technical data that are identified on the United States Munitions List (USML). Complete, on-line versions of the ITAR and USML are also available online via the Government Printing Office and Federation of American Scientists websites.
- **Commodity Jurisdiction Ruling:** A commodity jurisdiction request is used to determine whether an item or service is subject to the export licensing authority of the Department of Commerce, Bureau of Industry and Security (BIS) or the Department of State, Directorate of Defense Trade Controls (DDTC). Any such requests must be made in consultation with the Office of GC.
- **Foreign Persons** means any natural person who is not lawfully admitted for permanent residence in the United States as defined by 8 U.S.C. 1101(a)(20) (as evidenced by a permanent resident visa, or "Green Card"), or who is not a protected individual as defined by 8 U.S.C. 1324b(a)(3). This includes all persons in the U.S. as tourists, students, businesspeople, scholars, researchers, technical experts, sailors, airline personnel, salespeople, military personnel, diplomats, etc. As noted, one exception to this general statement is a "protected person." "Protected persons" include political refugees and political asylum holders. Be aware that individuals seeking "protected person" status must satisfy all of the terms and conditions that are fully set forth in 8 U.S.C. 1324b(a)(3). For more information and detailed examples, see "Deemed Exports" Questions and Answers.

- **Foreign Persons** also means any corporation, business association, partnership, trust, society or any other entity or group that is not incorporated or organized to do business in the United States, as well as international organizations, foreign governments and any agency or subdivision of foreign governments (e.g. diplomatic missions).
  
- **Public Domain** (22 CFR 120.11) is a term used in the ITAR that generally corresponds to publicly available information under the EAR. Under the ITAR, public domain means information that is published and that is generally accessible or available to the public: (1) through sales at newsstands and bookstores; (2) through subscriptions which are available without restriction to any individual who desires to obtain or purchase the published information; (3) through second class mailing privileges granted by the U.S. Government; (4) at libraries open to the public or from which the public can obtain documents; (5) through patents available at any patent office; (6) through unlimited distribution at a conference, meeting, seminar, trade show or exhibition, generally accessible to the public, in the United States; (7) through public release (i.e., unlimited distribution) in any form (e.g., not necessarily in published form) after approval by the cognizant U.S. government department or agency; and (8) through *fundamental research*.
  
- **Fundamental Research** is a subcategory of publicly available (EAR) or public domain (ITAR) information, which generally is not subject to export controls. As used in the EAR, fundamental research includes basic and applied research in science and engineering where the resulting information is ordinarily published and shared broadly within the scientific community. Such research can be distinguished from proprietary research and from industrial development, design, production, and product utilization, the results of which ordinarily are restricted for proprietary reasons or specific national security reasons. University research will not qualify as fundamental research if the university or researcher accepts any restrictions on the publication of the information resulting from the research, other than limited prepublication reviews by research sponsors to prevent inadvertent divulging of proprietary information provided to the researcher by sponsor or to insure that publication will not compromise patent rights of the sponsor. Note that this exclusion does not apply to certain encryption software and technology.

The citation for the official definition of Fundamental Research under the **EAR** is 15 CFR 734.8; the citation relevant to government-sponsored research under the EAR is 15 CFR 734.11. The ITAR citation regarding public domain information, including fundamental research is 22 CFR 120.11. The **ITAR** citations regarding release of technical data approved by a sponsoring government agency are 22 CFR 120.11(a)(7) and 22 CFR 125.4(b)(13). Note that there is no general fundamental research exclusion that applies to defense *articles* (as opposed to technical data) under the ITAR; however, there are exclusions that apply to specific articles under certain circumstances.

- **Federal Access and Dissemination Controls**

If the research is federally funded and subject to specific contract access and dissemination controls, the export of information that is consistent with those controls may be made under the EAR.

### **III. Guidelines for Sponsored Research Projects**

The University of Florida generally conducts instruction, research, and services openly and without prohibitions on the publication and dissemination of the results of academic and research activities. Restrictions on publication have a specific impact on the operation of the fundamental research exclusion under export control law and may subject the research to federal licensing requirements. Therefore, the University has developed the following guidelines to help Contract Administrators, Principal Investigators, and other persons engaged in research at the University determine whether a particular research project is eligible for the fundamental research exclusion and to take appropriate action if it is not.

The designated Contract Administrator will review the research contract for terms or provisions that restrict access to or publication of research and technical data, limit the participation of foreign nationals or otherwise render inapplicable the exclusion for fundamental research or publicly available information. If the project qualifies as fundamental research and research information will be publishable and generally accessible or available to the public, then the fundamental research exclusion applies and no export license will be required.

If it appears that the publicly available or fundamental research exclusions are not applicable, the Contract Administrator will ask the Principal Investigator to determine whether the research falls within the CCL or the USML. DRC will provide a form for the Principal Investigator to consult and complete. The Principal Investigator will certify his or her decision on the DRC form and return the completed form to the Contract Administrator.

The Director of DRC and GC Office will make a final determination as to the application of export control regulations and provide written notice of that decision and recommend appropriate actions to the Principal Investigator, Contract Administrator, Vice President for Research, and the appropriate dean and department chair. The Contract Administrator will work with the Principal Investigator and other appropriate parties to implement the determination.

\* The University of Florida gratefully acknowledges assistance and permission from the University of Maryland in the preparation and presentation of this information. The information below has been modified only to update the contact information.

## Exporting

- US Dept. of Commerce, State, & Treasury regulate items & technology (including information) with *warfare potential, items that could be used against US interests, or are restricted via embargo or trade policy*
- The USDA also regulates animals, animal products for export  
[http://www.aphis.usda.gov/import\\_export/animals/animal\\_exports.shtml](http://www.aphis.usda.gov/import_export/animals/animal_exports.shtml)
  - As well as plants & plant products  
[http://www.aphis.usda.gov/import\\_export/plants/plant\\_exports/index.shtml](http://www.aphis.usda.gov/import_export/plants/plant_exports/index.shtml)

Dept. of Commerce/State Export restricted bioagents ...

- Need Export Permit to ship overseas

- Select agents
- Certain human pathogen BSL2 agents
- Certain plant & animal pathogens that are not already classified as select agents
- SEE LIST in handout

DRC regulates UF export of technical data, goods, & technology. Makes sure UF folks are in compliance with federal regulations. See [http://research.ufl.edu/compliance/export\\_control.html](http://research.ufl.edu/compliance/export_control.html)

Some exemptions apply for information, data, etc. but NEVER for the items themselves –always need an export license for a listed item.

A License Will Be Required to Export the Following Bioagents. Other export controls may apply for possession & use in the US, see [http://research.ufl.edu/compliance/export\\_control.html](http://research.ufl.edu/compliance/export_control.html)  
All are "Select Agents", with the exception of those preceded by an asterisk. (\* = non-select agent).  
Below are Agents controlled under EAR. ITAR controls are found in Category XIV of the U.S. Munitions List at 22 C.F.R. 121.1

## HUMAN AND ANIMAL PATHOGENS

### VIRUSES, AS FOLLOWS:

- Central European tick-borne encephalitis viruses, as follows:
  - Absettarov;
  - Hanzalova;
  - Hypr;
  - Kumlinge;
- Cercopithecine herpesvirus 1 (Herpes B virus);
- \*Chikungunya virus;
- Congo-Crimean haemorrhagic fever virus (a.k.a. Crimean-Congo haemorrhagic fever virus);
- \*Dengue fever virus;
- Eastern equine encephalitis virus;
- Ebola virus;
- \*Hantaan virus;
- Hendra virus (Equine morbillivirus);
- 1918 pandemic influenza virus - reconstructed replication competent forms containing any portion of the coding regions of all eight gene segments;
- Japanese encephalitis virus;
- Junin virus;
- Kyasanur Forest virus;
- Lassa fever virus
- \*Louping ill virus;
- \*Lymphocytic choriomeningitis virus;
- Machupo virus;
- Marburg virus;
- Monkey pox virus;
- \*Murray Valley encephalitis virus;
- Nipah virus;
- Omsk haemorrhagic fever virus;
- \*Oropouche virus;
- \*Powassan virus;
- \*Pulmonary & renal syndrome-haemorrhagic fever viruses (Seoul, Dobrava, Puumala, Sin Nombre);
- Rift Valley fever virus;
- \*Rocio virus;

- South American haemorrhagic fever (Sabia, Flexal, Guanarito);
- \*St. Louis encephalitis virus;
- Tick-borne encephalitis virus (Russian Spring-Summer encephalitis virus);
- Variola virus;
- Venezuelan equine encephalitis virus;
- \*Western equine encephalitis virus;
- \*White pox;
- \*Yellow fever virus.

**BACTERIA & RICKETTSIAE, AS FOLLOWS:**

- Bacillus anthracis;
- \*Bartonella quintana (Rochalimea quintana, Rickettsia quintana);
- Brucella abortus;
- Brucella melitensis;
- Brucella suis;
- Burkholderia mallei (Pseudomonas mallei);
- Burkholderia pseudomallei (Pseudomonas pseudomallei);
- \*Chlamydia psittaci;
- Clostridium botulinum;
- \*Clostridium perfringens, epsilon toxin producing types;
- Coxiella burnetii;
- \*Enterohaemorrhagic Escherichia coli, serotype O157 and other verotoxin producing serotypes;
- Francisella tularensis;
- Rickettsia prowasecki (a.k.a. Rickettsia prowazekii);
- Rickettsia rickettsii;
- \*Salmonella typhi;
- \*Shigella dysenteriae;
- \*Vibrio cholerae;
- Yersinia pestis.

**"TOXINS", AS FOLLOWS, AND "SUBUNITS" THEREOF:**

- Abrin;
- \*Aflatoxins;
- Botulinum toxins;
- \*Cholera toxin;
- Clostridium perfringens toxins;
- Conotoxin;
- Diacetoxyscirpenol toxin;
- \*HT-2 toxin;
- \*Microcystin (Cyanginosin);
- \*Modeccin toxin;

- Ricin;
- Saxitoxin;
- Shiga toxin;
- Staphylococcus aureus toxins;
- T-2 toxin;
- Tetrodotoxin;
- Verotoxin and other Shiga-like ribosome inactivating proteins;
- \*Viscum Album Lectin 1 (Viscumin);
- \*Volkensin toxin.

**"FUNGI", AS FOLLOWS:**

- Coccidioides immitis;
- Coccidioides posadasii.

**ANIMAL PATHOGENS**

**VIRUSES, AS FOLLOWS:**

- African horse sickness virus;
- African swine fever virus;
- Akabane virus;
- Avian influenza virus that are:
  - Defined in EC Directive 92/40/EC (O.J. L.16 23.1.92 p.19) as having high pathogenicity;
  - Type A viruses with an IVPI (intravenous pathogenicity index) in 6 week old chickens of greater than 1.2; or
  - Type A viruses H5 or H7 subtype for which nucleotide sequencing has demonstrated multiple basic amino acids at the cleavage site of haemagglutinin;
- Bluetongue virus;
- Bovine spongiform encephalopathy agent;
- Camel pox virus;
- Foot and mouth disease virus;
- Goat pox virus;
- Lumpy skin disease virus;
- \*Lyssa virus;
- Malignant catarrhal fever virus;
- Menangle virus;
- Newcastle disease virus;
- Peste des petits ruminants virus;
- Porcine enterovirus type 9 (swine vesicular disease virus);
- \*Porcine herpes virus (Aujeszky's disease);
- Rinderpest virus;
- Sheep pox virus;

- Swine fever virus (Hog cholera virus);
- \*Teschén disease virus;
- <sup>Δ</sup>Vesicular stomatitis virus.

**MYCOPLASMA, AS FOLLOWS:**

- Mycoplasma capricolum;
- Mycoplasma F38;
- Mycoplasma mycoides.

**RICKETTSIAE, AS FOLLOWS:**

- Erhlichia ruminantium (a.k.a. Cowdria ruminantium).

<sup>Δ</sup> Exotic strains of Vesicular stomatitis virus are select agents

**PLANT PATHOGENS**

**VIRUSES, AS FOLLOWS:**

- \*Potato Andean latent tymovirus;
- \*Potato spindle tuber viroid.

**BACTERIA, AS FOLLOWS:**

- Candidatus Liberobacter africanus(a.k.a. Liberobacter africanus);
- Candidatus Liberobacter asiaticus(a.k.a. Liberobacter asiaticus);
- \*Clavibacter michiganensis subspecies sepedonicus (syn. Corynebacterium michiganensis subspecies sepedonicum or Corynebacterium sepedonicum);
- Ralstonia solanacearum Races 2 and 3 (syn. Pseudomonas solanacearum Races 2 and 3 or Burkholderia solanacearum Races 2 and 3);
- \*Xanthomonas albilineans;
- \*Xanthomonas campestris pv. citri including strains referred to as Xanthomonas campestris pv. citri types A,B,C,D,E or otherwise classified as Xanthomonas citri, Xanthomonas campestris pv. aurantifolia or Xanthomonas campestris pv. citrumelo;
- <sup>Δ</sup>Xanthomonas oryzae pv. oryzae (syn. Pseudomonas campestris pv. oryzae);
- Xylella fastidiosa pv. citrus variegated chlorosis (CVC).

**FUNGI, AS FOLLOWS:**

- \*Cochliobolus miyabeanus (Helminthosporium oryzae);
- \*Colletotrichum coffeanum var. virulans (Colletotrichum kahawae);
- \*Magnaporthe grisea (pyricularia grisea/pyricularia oryzae);
- \*Microcyclus ulei (syn. Dothidella ulei);

- *Peronosclerospora philippinensis*;
- \**Puccinia graminis* (syn. *Puccinia graminis* f. sp. *tritici*);
- \**Puccinia striiformis* (syn. *Puccinia glumarum*);
- *Sclerophthora rayssiae* var. *zeae*;
- *Synchytrium endobioticum*.

<sup>Δ</sup> The *Xanthomonas oryzae* pathovar *oryzicola* is a select agent

## GENETIC ELEMENTS AND GENETICALLY-MODIFIED ORGANISMS

Genetic elements, as follows:

- 1) Genetic elements that contain nucleic acid sequences associated with the pathogenicity of microorganisms listed above;
- 2) Genetic elements that contain nucleic acid sequences coding for any of the "toxins" or "sub-units of toxins" listed above.

Genetically modified organisms, as follows:

- 1) Genetically modified organisms that contain nucleic acid sequences associated with the pathogenicity of microorganisms listed above;
- 2) Genetically modified organisms that contain nucleic acid sequences coding for any of the "toxins" or "sub-units of toxins" listed above.

Technical Notes:

- 1) "Genetic elements" include, inter alia, chromosomes, genomes, plasmids, transposons, and vectors, whether genetically modified or unmodified.
- 2) This rule does not control nucleic acid sequences associated with the pathogenicity of enterohaemorrhagic *Escherichia coli*, serotype O157 and other verotoxin producing strains, except those nucleic acid sequences that contain coding for the verotoxin or its sub-units.
- 3) "Nucleic acid sequences associated with pathogenicity" means any sequence specific to the relevant controlled microorganism that: a. In itself or through its transcribed or translated products represents a significant hazard to human, animal or plant health; or b. Is known to enhance the ability of a microorganism listed above, or any other organism into which it may be inserted or otherwise integrated, to cause serious harm to human, animal or plant health.

## Off Campus Certification Letter (Attachment E)

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### FOREIGN TRAVEL REQUEST

<b>Requested By:</b>	<u>Adams, Sherry D</u>	<b>Request Date:</b>	<u>JUNE 24, 2010</u>
<b>Phone/Email:</b>	<u>392-2556 401 sadams@ufl.edu</u>		

#### REQUEST DETAIL

<b>Tag Number:</b>	000000234644	<b>Description:</b>	PRINTER, PAXAR 9825 BARCODE
<b>Serial:</b>	07051176	<b>ECCN:</b>	
<b>Traveler:</b>	Adams, Sherry D (86210550)	<b>Department:</b>	FA-PDS-ASSET MANAGEMENT
<b>Travel Dates:</b>	06-25-2010 - 06-24-2011	<b>Country:</b>	Australia, Argentina, Bahamas
<b>Comments:</b>	This is a test		

#### REQUEST APPROVED

Based on the information provided, the attached item is permitted to travel to Australia, Argentina, Bahamas on 06-25-2010. A license will not be required prior to traveling. Please print the attached PDF document and provide it to Adams, Sherry D.

Please be advised that no technical data, restricted data or research results generated from restricted projects should be carried outside the United States without a license.

If you are required to take Restricted Data with you outside the United States, please contact the Division of Sponsored Research at (352) 392-3516 prior to traveling.

NOTE: Taking applicable Restricted Data without a license, can result in criminal and/or civil penalties and fines.

This is a test

This is a test

Processed by Adams, Sherry D (86210550) on 24-JUN-10

## DRC Record of Export Control Review (Attachment F)

### EXPORT CONTROL REVIEW Internal

<b>Principal Investigator:</b>	
<b>College/School/Department:</b>	
<b>Sponsor:</b>	
<b>Sponsor Award Identifier:</b>	
<b>Prime Sponsor (if applicable):</b>	
<b>Prime Sponsor Identifier:</b>	
<b>Title of Project:</b>	
<b>Project Performance Period:</b>	

#### PROJECT REVIEW: (complete questions and attach supporting documentation)

YES	NO	
<input type="checkbox"/>	<input type="checkbox"/>	The project involves the transfer or provision of any goods, articles, materials, equipment, services, or supplies <u>out of the United States</u> .
<input type="checkbox"/>	<input type="checkbox"/>	The project <u>will</u> utilize <b>non-US</b> citizens paid <b>and/or</b> non-paid. [Note: only required if effort is determined to be controlled]
<input type="checkbox"/>	<input type="checkbox"/>	The Project participants <b>are dependent</b> upon the research results for any thesis or dissertation.
<input type="checkbox"/>	<input type="checkbox"/>	Project <b>involves</b> export controlled information, materials and/or equipment** <b>** (Purchased, generated and/or received by/from Sponsor and/or UF and/or other sources)</b>
<input type="checkbox"/>	<input type="checkbox"/>	Project abstract attached - involves military related topics, weapons, pathogens, toxins, satellites, radars, sensors, unmanned vehicles, energetics, explosives etc.

#### CONTRACT REVIEW: (complete questions and attach supporting documentation)

*The contract contains specific national security/access and dissemination controls on information resulting from the research:*

YES	NO	
<input type="checkbox"/>	<input type="checkbox"/>	Prepublication review for other than removal of preexisting proprietary information or protection of patentable subject matter. Or language that proves the sponsor/prime with the right to withhold permission for publication.
<input type="checkbox"/>	<input type="checkbox"/>	Restrictions on <u>non-US</u> citizen access/participation.
<input type="checkbox"/>	<input type="checkbox"/>	Attached are the contract clauses and/or federal regulations relative to the noted restrictions.

**Foreign National** is defined simply as, "An individual who is a citizen of any country other than the United States." A person who was born outside the jurisdiction of the United States, is a citizen of a foreign country, and has not become a naturalized U.S. citizen under U.S. law. This includes Legal Permanent Residents. This definition presumably also applies to anyone who has successfully renounced their U.S. citizenship.

**Foreign Person** is defined simply as, "foreign person" as any foreign corporation, business association, partnership, trust, society or any other entity or group that is not incorporated or organized to do business in the United States as well as international organizations, foreign governments and any agency or subdivision of foreign governments (e.g. diplomatic missions), and any natural person who is not citizen or lawful permanent resident of the United States (as defined by 8 U.S.C. 1101(a)(20))

Reviewed by: Research Administrator: Notes:	Typed Name:	Initials:	Date:
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## DRC Record of Export Control Review (Attachment F)

### EXPORT CONTROL- PI CERTIFICATION

<b>Principal Investigator:</b>	
<b>College/School/Department:</b>	
<b>Sponsor:</b>	
<b>Sponsor Award Identifier:</b>	
<b>Prime Sponsor (if applicable):</b>	
<b>Prime Sponsor Identifier:</b>	
<b>Title of Project:</b>	
<b>Project Performance Period:</b>	

A review of the project and corresponding contract as listed above has been completed. It has been determined that **export control issues may exist** and certain actions are required **before the project performance can begin**.

Please review the information below and **assert by signing the form that you understand and agree to the following restraints**. Once signed, the University will execute the pending award and begin the review and preparation of a Technology Control Plan (TCP). **You will be contacted for participation in completing the TCP.**

=====

No transfer any goods, articles, materials, equipment, services, supplies or information out of the United States without an export license and/or license exemption.

No use of foreign nationals or foreign persons on the project – paid or non-paid - without the proper Sponsor required prior approvals and export license.

No access to or dissemination of export controlled products and/or information to any foreign nationals or foreign persons without an export license and required Sponsor prior approvals.

No access to or dissemination of project research results to any foreign nationals or foreign persons without an export license and required Sponsor prior approvals.

A Technology Control Plan is required for the project. I will abide by the plan including the following conditions.

1. Implement Physical Security Measures for my lab to limit access to export controlled technology, information, data, materials, items and research results.
2. Implement Information Security Measures such as a secured workstation with only approved use access.
3. Implement Personnel Screening Procedures and ensure that all project personnel attend export control training.

I understand that I am responsible for ensuring that these restrictions are communicated to all project participants and that all project participants adhere to the restrictions.

I understand that if an export license is required that it must be obtained before any work requiring a license is commenced. I will work with the Division of Research Compliance and General Counsel's office on the license determination and application, and corresponding TCP such that all determinations and requirements are concluded within a month from my signing of this certification. I understand that I must be available and non-adherence to the timeline for conclusion of this process, as stated herein, may render a decision by the University to cancel the research agreement.

I will comply with all University of Florida policies and procedures regarding export controls.

**PI Acceptance:**

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**Signature**

**Date**

Return the signed form to:

## DRC Fundamental Research Determination Checklist

DRC has developed the Fundamental Research Determination Checklist to assist University of Florida faculty, staff and students in determining whether the Fundamental Research Exclusion applies to a specific project.

Fundamental Research (FR) is defined as “basic and applied research in science and engineering, the results of which ordinarily are published and shared broadly within the scientific community, as distinguished from proprietary research and from industrial development, design, production and product utilization the results of which ordinarily are restricted for proprietary or national security reasons”

<b>Principal Investigator:</b>	
<b>College/School/Department:</b>	
<b>Sponsor:</b>	
<b>Prime Sponsor (if applicable):</b>	
<b>Title of Project:</b>	
<b>Project Performance Period:</b>	

Please answer the following questions regarding the specific project listed above.

**1. Does the project consist of either basic and/or applied research\*?**

Yes

No

\*Sample of projects not considered basic or applied research:

The project involves the testing or evaluation of a proprietary compound, material, or device of either the Sponsor or a third party (typically, does not apply to clinical trials).

The expected outcome of the project is to improve an existing product or process for the Sponsor or third party through industrial development, design, production or product utilization.

**2. Does this project contain any publication restrictions?**

Yes

No

**3. Does this project contain any restrictions on foreign nationals?**

Yes

No

**4. Does this project contain information, materials, or defense articles provided by Sponsor or a third party which are already designated as subject to export controls?**

Yes

No

**DRC Fundamental Research Determination Checklist (Attachment G)**

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**5. Does this project materially contribute to the design, development, production or stockpiling of weapons or mass destruction or encryption commodities and software?**

Yes                      No

**6. Will this project be performed entirely on campus in the US?**

Yes                      No

**7. Is there a confidentiality agreement associated with this project?**

Yes                      No

If yes, attach a copy of the confidentiality agreement.

**8. Is there a material transfer agreement associated with this project?**

Yes                      No

If yes, attach a copy of the material transfer agreement.

Brief Description of Project and Additional Information that may be helpful in the determination:

Agreed and Understood:

\_\_\_\_\_  
Principal Investigator

\_\_\_\_\_  
Date

Forward to the Division of Research Compliance, 460 Grinter Hall for final determination

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(To be completed by DRC only)

DRC Comments:

The Fundamental Research Exclusion applies to the subject project.

Yes                      No

\_\_\_\_\_  
Division of Research Compliance

\_\_\_\_\_  
Date