

OLD DOMINION UNIVERSITY

University Policy

Policy # 5340

EXPORT CONTROL POLICY

Responsible Oversight Executive: Vice President for Research

Date of Current Revision or Creation: October 1, 2020

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This policy is to ensure that the Old Dominion University Office of Research (ODUOR), the Old Dominion University Research Foundation (ODURF), principal investigators (PIs) and other individuals involved in both funded and unfunded research collaborate to assess the application of export control regulations and assist with determining measures necessary for compliance.

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[Code of Virginia Section 23.1-1301, as amended](#), grants authority to the Board of Visitors to make rules and policies concerning the institution. Section 6.01(a)(6) of the [Board of Visitors Bylaws](#) grants authority to the President to implement the policies and procedures of the Board relating to University operations.

[Export Administration Regulations - Title 15 CFR Parts 730-774](#)

Export Administration Regulations (EAR) – The EAR controls technologies and products that serve primarily civil purposes, but may also have military applications. These regulations are promulgated and enforced by the Bureau of Industry and Security in the Department of Commerce under Title 15, sections 730-774 of the Code of Federal Regulations (CFR). Technologies and products that are controlled under the EAR are identified on the [Commerce Control List \(CCL\), Title 15 CFR 774, Supp. 1](#), and divided into categories to include: Nuclear Materials, Facilities and Equipment, and Miscellaneous; Materials, Chemicals, “Microorganisms,” and Toxins; Materials Processing; Electronics Design, Development and Production; Computers; Telecommunications and Information Security; Sensors; Navigation and Avionics; Marine; and Propulsion Systems, Space Vehicles, and Related Equipment; and encryption source code and object code software.

Foreign National - Both the EAR and ITAR define “foreign national” 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, and any person who is not a citizen or lawful permanent resident of the United States (as defined by

- x Send all nondisclosure agreements to ODUOR for review and modification of any provisions that could eliminate institutional exclusions from export control requirements; and
- x Contact both offices before engaging in research activities with persons in countries subject to OFAC boycott programs.

Although primary responsibility for compliance rests with individual researchers, the ODUOR and ODURF will assist researchers in assessing the application of export control regulations and OFAC boycotts to specific projects.

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1. For specific research contracts, nondisclosure agreements, and teaming agreements, the responsibility for determining the relevance of export control regulations will be shared among grant and contract administrators, PIs and others as follows:
 - x If the PI knows that a research contract, nondisclosure agreement or material transfer agreement may or will require shipping scientific or computational equipment out of the country or transmitting technology to foreign persons abroad, the PI should prominently disclose those facts when submitting the proposal to ODURF. The grant and contract administrator will work with the PI and the ODUOR to review the applicability of the EAR or ITAR and take appropriate steps as discussed below.
 - x The designated grant and contract administrator will work with the ODUOR to work with ODURF to review the research contract, nondisclosure agreement or material transfer agreement for any terms or provisions that restrict access to the research or research information, limit the participation of foreign persons in the research, restrict the release of research results, or otherwise render inapplicable the exclusion for fundamental research conducted in the public domain.

No export license will be required as a condition of releasing research results or granting foreign persons access to the research if the project qualifies as fundamental research and research results will be publishable and general (17)(c)(1)-(3) and (17)(c)(2)(A)-(E) (15)(a)-f)

reject the contract, to seek an exception to University policy to allow the project to continue, or take other appropriate actions. The grant and contract administrator will work with ODUOR and the PI and other appropriate parties to implement the determination.

- x All export control decisions will be documented and kept on file by both ODUOR and ODURF.
2. Research involving ITAR -controlled items, software, or technology requires submission of and -

POLICY HISTORY