

**Vanderbilt University**



**Export Compliance  
Manual**

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## 1 REVISION HISTORY

Revision Number	Date	Description of Changes
1.0	March 29, 2018	Combination of Export Management System (EMS) and VEC Policies and Procedures manual
1.1	July 20, 2020	Updated links, terms, policy changes, and Org chart
1.2	July 23, 2022	Updated logo, links, NIST info, embargoed and sanctioned country info, and org chart; made grammar and spelling corrections, indentation and margin changes
1.3	June 2024	Updated hyperlinks, CFR numbers, job titles, and penalties

## 2 DISCLAIMER

This Manual is not intended as, and should not be considered, formal legal advice. The Vanderbilt Export Compliance Office (VEC) is a resource to provide guidance and assistance for the University on export compliance matters. Specific questions about export control compliance should be directed to VEC.

### Vanderbilt Export Compliance (VEC)

615-343-5493

[vec@vanderbilt.edu](mailto:vec@vanderbilt.edu)

<https://www.vanderbilt.edu/researchintegrityandcompliance/export-compliance/>

All Vanderbilt University Medical Center requests should be directed to the [VUMC Export Office](#). Students who rotate in or join a VUMC lab should contact VUMC Exports for assistance. For faculty with both University and Medical Center appointments, please contact VEC and/or VUMC Exports for assistance in determining the correct office.

## 3 ACRONYMS

BIS: Bureau of Industry and Security	ITAR: International Traffic in Arms Regulations
CCL: Commerce Control List	ITQ: International Travel Questionnaire
DDTC: Directorate of Defense Trade Controls	OFAC: Office of Foreign Assets Control
EAR: Export Administration Regulations	PI: Principal Investigator
ECCN: Export Control Classification Number	RPS: Restricted Parties Screening
ECM: Export Control Manager	SHIP: International Shipment Form
ECO: Export Control Officer	TCP: Technology Control Plan
EO: Empowered Official	TMP: Temporary Export Exception
EUS: End-User Statement	USML: United States Munitions List
FAP: Facility Access Plan	VDEQ: Visa Deemed Export Questionnaire
FRE: Fundamental Research Exclusion	VEC: Vanderbilt Export Compliance
IT: Information technology	VIS: Foreign National Visitor Form



## GLOSSARY

See the [VEC website](#) for glossary and terms.

## 4 PURPOSE

The Vanderbilt University Export Compliance Manual (“Manual”) is intended to provide guidance on U.S. Export Control laws and regulations, to identify key export compliance issues related to research, education, and all other activities conducted within a university setting, and to describe how the *Vanderbilt University Export Compliance Policy* (“institutional policy”) is implemented. See VANDERBILT UNIVERSITY EXPORT COMPLIANCE POLICY (Appendix 9.1). The procedures outlined herein serve as Vanderbilt University’s (“University”) program of internal controls, safeguards, and educational measures designed to minimize risk of potential violations of all applicable export control laws and regulations and institutional policy. The U.S. export control agencies place responsibility on the University to understand and ensure compliance with export control laws and regulations.

## 5 SCOPE

Vanderbilt University’s institutional policy and procedures outlined in this Manual apply to *University personnel*, defined as university faculty and staff. Postdoctoral fellows and students are also expected to comply with U.S. laws and regulations.

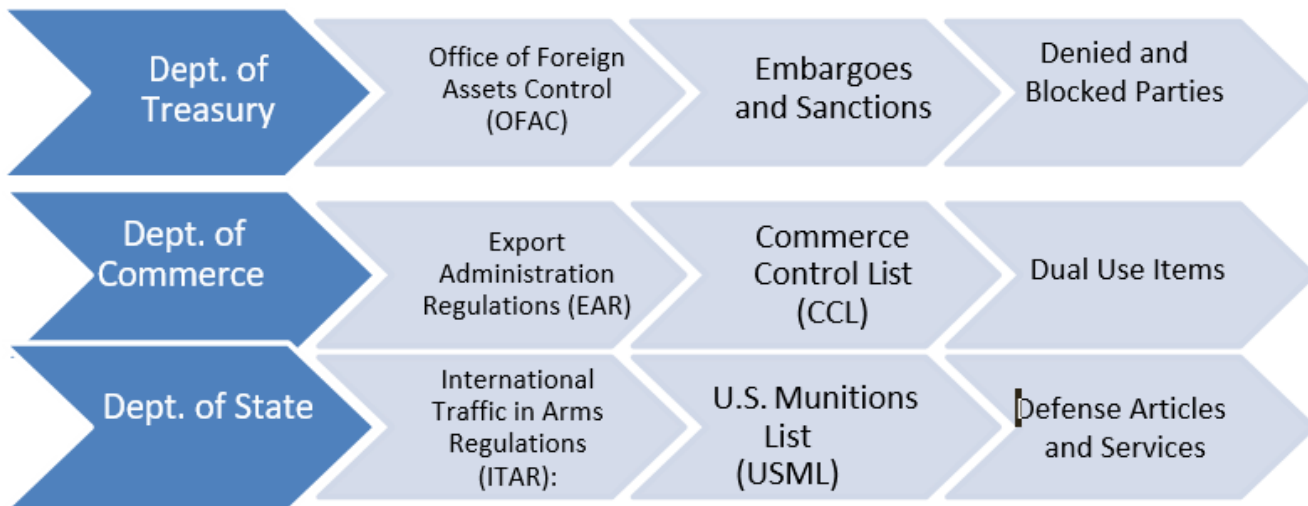
## 6 OVERVIEW OF U.S. EXPORT CONTROL LAWS

The U.S. export control regulations were designed to protect U.S. national security, prevent the proliferation of weapons of mass destruction, advance U.S. foreign policy, support regional stability, protect human rights, maintain U.S. economic competitiveness, and implement anti-terrorism and crime controls.

The main concerns of U.S. export controls are classification, destination, end-user, and end-use.

Classification	<b>What is being exported?</b> <ul style="list-style-type: none"><li>○ Item, Software, Technical Data?</li><li>○ Military or dual-use?</li></ul>
Destination	<b>Where is it going?</b> <ul style="list-style-type: none"><li>○ Sanctioned or embargoed country?</li></ul>
End User	<b>Who will receive it?</b> <ul style="list-style-type: none"><li>○ Denied or blocked party?</li><li>○ Military end user?</li></ul>
End Use	<b>What will they do with it?</b> <ul style="list-style-type: none"><li>○ Prohibited end use?</li></ul>

To understand export control regulations, it's important to understand: **what is an export?** An export is any transfer of an item or information to a foreign country or to a foreign national located within the United States. This transmission can be oral, written, visual disclosure, shipment, hand-carrying items while traveling, or providing technical assistance. The three principal agencies regulating exports from the United States are:



There are other U.S. federal agencies, such as Customs and Border Protection (CBP), the Nuclear Regulatory Commission (NRC) and the U.S. Department of Defense (DoD), just to name a few, that have jurisdiction over certain items and/or activities subject to export controls.

These agencies generally restrict the export of certain types of products and services based on the destination of the export and the items intended end use. The U.S. Government tightly regulates the export not only of certain types of equipment and components, but also of technology. Technology includes technical data, such as blueprints and manuals, as well as design services, including testing and the transfer of “knowledge”, and training. In addition, the U.S. maintains economic embargoes against a number of countries whose governments consistently violate human rights or act in support of global terrorism. Such embargoes bar most transactions by U.S. persons with these countries.

## 7.1 OFFICE OF FOREIGN ASSETS CONTROL (OFAC)

The [Office of Foreign Assets Control \(OFAC\)](#) is within the U.S. Department of Treasury. OFAC is responsible for maintaining and enforcing U.S. economic and trade sanctions. Trade sanction programs exist against targeted foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and other threats to the national security, foreign policy or economy of the United States. The level of restriction or prohibition of an existing sanction program is influenced by foreign relations and national security.

The OFAC sanction programs can be generalized into three categories:

- 1) **Comprehensive**—In general, under comprehensive sanctions programs, most all interactions and activities are prohibited, including exporting to, importing from, financial transactions, and/or providing services of any kind. While essentially all interactions with comprehensively sanctioned countries are prohibited, there is an exception for informational materials that allows certain transactions to occur.
- 2) **Limited**—Under limited sanctions programs only some activities (e.g., importation of items) are prohibited.
- 3) **Regime or List-Based**—Regime or List-Based sanctions are targeted against specific individuals

identified by the Treasury Department and referred to as Specially Designated Nationals (SDNs) or are targeted against specific groups of people usually associated with a governmental body or regime.

For an updated list of currently sanctioned countries and programs see the [OFAC Sanctions Programs and Country Information](#). In addition, [trade.gov](#) maintains a searchable consolidated screening listing of groups and individuals that are blocked or denied.

## **7.2 EXPORT ADMINISTRATION REGULATIONS (EAR)**

The [Export Administration Regulations](#) are administered by the U.S. Department of Commerce, Bureau of Industry and Security (BIS), which regulates the export of “dual use” items. Dual use items have primarily commercial purposes but may have potential military or space applications. Examples of dual use items may include chemicals, microorganisms, laboratory equipment, computers and software.

In general, any physical item made in the United States will be subject to the EAR, See Section 8.4.2, or is under another jurisdiction, such as ITAR. EAR technical data is also controlled, such as blueprints, plans, models, tables, designs, and manuals. While almost every item located within the U.S. is subject to the controls of the EAR, most do not require an export license.

Items and technical data that are subject to the EAR are listed on the Commerce Control List (CCL). Items are categorized and assigned an Export Control Classification Number (ECCN) based on 10 categories and 5 product groups. While ITAR items are controlled to all foreign countries and foreign nationals, EAR items are controlled to specific countries and vary depending on the reasons for control which are listed by country on the Commerce Country Chart. The CCL is found in [part 774 of the EAR; The Commerce Country Chart is found in Supplement 1 to part 738 of the EAR](#).

## **7.3 INTERNATIONAL TRAFFIC IN ARMS REGULATIONS (ITAR)**

The [International Traffic in Arms Regulations \(ITAR\)](#) are administered and implemented by the U.S. Department of State, Directorate of Defense Trade Controls (DDTC), in conjunction with the Department of Defense, to regulate defense exports.

Under the ITAR, DDTC administers the export of defense articles and defense services. A defense article is any item or technical data that is specifically designed, developed, configured, adapted, or modified for military or space use. This can include models, mockups, or data for parts and components that make up the defense articles. For example, military aircraft are ITAR controlled as well as the engines and navigational controls even though such components may have other applications. A defense service is providing assistance to foreign persons, whether in the U.S. or abroad, in the design or development of defense articles. This service may be in the form of providing training, engineering, production, testing, repair, maintenance, operation, destruction, or processing of a defense article.

ITAR controlled defense articles and services are listed on the U.S. Munitions List (USML). The USML lists 21 categories and a detailed listing can be found in [22 C.F.R 121.1](#).

## **7.4 PENALTIES**

Export of a controlled item without proper authorization may result in criminal and/or civil penalties for the university *and/or the responsible individual (e.g. the PI)*. This includes exports violating the terms of an export license. In some cases, multiple violations of related restrictions may apply to a single export, resulting in extremely large fines. Penalties may include seizure of items, loss of export privileges,



debarment from participating in future federal contracts, or jail time. Note that deemed export violations are subject to the same federal penalties as physical exports.

	Criminal Penalties	Civil Penalties
OFAC	Up to \$1,000,000 per violation and up to 30 years imprisonment	Up to \$250,000 per violation
EAR	Up to \$1,000,000 per violation and up to 20 years imprisonment	Up to \$300,000 per violation
ITAR	Up to \$1,000,000 per violation and up to 20 years imprisonment	Up to \$500,000 per violation

#### 7.4.1 VOLUNTARY SELF-DISCLOSURE

Voluntary self-disclosure of a violation can be a mitigating factor in penalty assessment, reducing penalties up to 50%. In most cases certain conditions apply, such as implementing or improving a compliance program. Factors which potentially affect penalty assessment include:

- First time offender
- Presence of a compliance program
- Remediation steps taken
- Cause of the violation; e.g. misapplication of laws, mistake of fact
- Willful or intentional violation

Penalties are subject to change. For the latest penalties please consult the relevant agency.

## 7.5 IMPORTANT EXPORT CONTROL EXCLUSIONS TO UNIVERSITIES

Most of the work done at the University is included or exempted from export controls under the Educational Instruction, Public Domain, and Fundamental Research Exclusions. If the work or research meets the criteria for one of these exclusions, then it is **not** subject to export control.

### 7.5.1 EDUCATIONAL INFORMATION EXCLUSION

Educational instruction is referred to as information normally taught or released in academic catalog-listed courses or in teaching labs associated with those courses and not subject to export controls. This exclusion is based on the recognition in ITAR that “information concerning general scientific, mathematical, or engineering principles commonly taught in schools, colleges, and universities, or information in the public domain” should not be subject to export control restrictions.

### 7.5.2 PUBLIC DOMAIN/PUBLICLY AVAILABLE EXCLUSION

Information that is already published or is in the public domain is considered public information and as provided for under the federal regulations ([15 CFR §734.7](#)) is **NOT** subject to export controls. Examples of information in the public domain include:

- Books, newspapers, pamphlets
- Publicly available technology and software
- Information presented at conferences, meetings and seminars open to the public
- Information included in published patents
- Websites freely accessible by the public

This exclusion does not apply to encrypted software, to information if there is reason to believe it may be used for weapons of mass destruction, or where the U.S. Government has imposed access or dissemination controls as a condition of funding.

### 7.5.3 FUNDAMENTAL RESEARCH EXCLUSION (FRE):

Fundamental research is basic or applied research in science, engineering, or mathematics, the results of which ordinarily are published and shared broadly within the scientific community, and for which the researchers have not accepted restrictions for proprietary or national security reasons. The Fundamental Research Exclusion (FRE) is an exclusion from export controls that allows university-based research that might otherwise be controlled for export by either the EAR or ITAR to be excluded ([15 CFR §734.8](#) and [22 CFR §120.34\(8\)](#), respectively).

Because there is generally an *intent* and *ability* to publish research results or make available in the public domain, most university research is considered to be fundamental and is excluded from export controls under the FRE. However, it is important to note that not everything qualifies for the FRE.

Does Not Qualify	Does Qualify
Tangible (physical) items	Research data and results
Input information (work done prior)	Software
ITAR defense services	
International Shipments	
Research conducted outside the U.S.	

Researchers should note that specifically under the ITAR, the FRE can only be utilized at an accredited institution of higher learning in the United States.

#### 7.5.3.1 FUNDAMENTAL RESEARCH DISQUALIFIERS

The following negate the ability to use the FRE and may subject the research to the full weight of export control laws and regulations:

- Contractual restrictions on
  - *Publication* (requires sponsor approval)
  - *Participation* based on nationality
  - *Dissemination* (limits who can access)
- If the PI has made a “side deal” with the sponsor
- Activity with an embargoed or sanctioned country
- Activity with restricted or denied parties

When such disqualifiers are present, the FRE cannot be used and the research becomes subject to export controls.

## 7 EXPORT CONTROL AT VANDERBILT UNIVERSITY

### 8.1 POLICY AND INSTITUTIONAL COMMITMENT

Vanderbilt University is a teaching and research environment dedicated to openness and the free exchange of research within the U.S. and internationally. A central principle of the University is that the teaching and research environment should be open so that ideas can be published and exchanged freely among faculty and students. This is an integral part of the University’s research mission; however, the University recognizes that certain activities may be subject to federal export control and, therefore, is committed to complying with U.S. laws and regulations. It is University policy to comply with all applicable U.S. export-control laws and regulations (see VANDERBILT UNIVERSITY EXPORT COMPLIANCE POLICY, Appendix 9.1).

The Vanderbilt University Export Compliance Office (VEC) is committed to maintaining an effective and

comprehensive export compliance program that can readily adapt to an evolving regulatory environment. It is dedicated to providing assistance to University researchers in their export-related activities. It is committed to acting as a centralized resource to maintain compliance while keeping administrative burden low.

In deference to the diverse and numerous academic and research areas within the University and in efforts to maintain consistency and simplicity, all the colleges, schools, programs, initiatives, departments, centers, and institutes shall be referred to as “Unit” unless otherwise specified within this Manual.

## **8.2 ROLES AND RESPONSIBILITIES**

The U.S. export control agencies place the responsibility on universities and their community members to understand and comply with regulations which control the transfer or distribution of controlled items and technologies. By taking proactive steps, members of the community protect themselves, their research, and the University. All faculty and staff are responsible for ensuring export compliance. Postdoctoral fellows and students are also expected to comply with U.S. laws and regulations.

### **8.2.1 VICE PROVOST FOR RESEARCH AND INNOVATION (VPRI)**

The Vice Provost for Research and Innovation (VPRI) is the Empowered Official (EO) for the export compliance program at the University. In this capacity, the VPRI has the authority to represent the University to external agencies, including, but not limited to, registration, licensing, classification requests, and voluntary disclosures. The VPRI may delegate such authority to appropriate parties as they sees fit. The VPRI may become involved with investigations of noncompliance with export control laws and institutional policy and make recommendations and determinations regarding institutional disciplinary actions.

### **8.2.2 SENIOR ASSISTANT PROVOST FOR SPONSORED PROGRAMS ADMINISTRATION AND COMPLIANCE**

The Senior Assistant Provost for Sponsored Programs Administration (SPA) and Compliance oversees the SPA office and represents the University in sponsored research agreements. They will be involved in reporting incidents of information security, investigations of noncompliance, and may be the delegated signatory for access and control plans.

### **8.2.3 EXPORT CONTROL OFFICER (ECO)**

The Export Control Officer (ECO) reports to the Vice Provost for Research and Innovation. They have direct day-to-day responsibility for administering all aspects of the University’s export compliance program.

The ECO has the delegated authority to apply for export control licenses on behalf of the University and to represent the University to regulatory authorities in all matters pertaining to export compliance. The ECO is responsible for developing and implementing procedures set forth in this Manual. Specifically, the ECO:

- 1) Leads and manages the overall procedures and protocols to ensure compliance with all applicable export control laws, regulations and institutional policy;
- 2) Directs and delegates day-to-day operation, administration, and communication of the export compliance program:
  - a. Transactional database and record-keeping
  - b. Export reviews on
    - i. Research agreements
    - ii. Restricted parties screening
    - iii. Deemed exports
    - iv. Foreign national visitors

- v. International travel
  - vi. International shipments
  - c. Determining licensing requirements or exceptions as applicable;
  - d. Development and maintenance of access and control plans for securing controlled items and information;
  - e. Export control training and education, including the VEC website;
- 3) Submits license applications, classification requests, and advisory opinions;
  - 4) Coordinates with federal regulatory and investigatory agencies to facilitate export compliance;
  - 5) Monitors, interprets, and implements regulatory changes and recommends policies and procedures accordingly; and
  - 6) Refers any non-compliance or other violations to the Vice Provost for Research and Innovation (VPRI) for review.

#### **8.2.4 EXPORT CONTROL MANAGER (ECM)**

The Export Control Manager (ECM) reports to the ECO. ECM is an encompassing label for position titles such as Export Compliance Specialist and Export Compliance Analyst. ECM duties include:

- 1) Executing the day-to-day operation, administration, communication of the export compliance program:
  - a. Transactional database and record-keeping
  - b. Performing and approving export reviews on
    - i. Research agreements
    - ii. Restricted parties screening
    - iii. International travel
    - iv. International shipments
    - v. Deemed exports
    - vi. Foreign national visitors
  - c. Determining licensing requirements or exceptions as applicable;
  - d. Development and maintenance of control plans for securing controlled items and information;
  - e. Export control training and education, including the VEC website;
- 2) Providing updates to policies, forms, and templates. Standardizing procedures and protocols and develop process maps;
- 3) Directly liaising with Units, personnel, and central offices to provide assistance and guidance on export compliance
- 4) Administering export education and promote a culture of awareness, including training and maintaining the VEC website and this Manual; and
- 5) Making overall recommendations for increasing efficiency while maintaining compliance.
- 6) Reviewing red-flags, non-compliance, or other violations with the ECO.

#### **8.2.5 PRINCIPAL INVESTIGATOR/FACULTY MEMBER**

Principal Investigators (PI) and/or faculty members have expert knowledge of the type of items, information, and technology involved in a research project or other university activity. PIs have primary responsibility for assuring that their research and other activities comply with export control regulations.

PI/faculty responsibilities include:

- 1) Understand how the Export Control Laws may affect their activities;
- 2) Identify the controlled technology, items, or information involved in their research, project, or other

- university activities;
- 3) Establish and maintain standards of export compliance for locations and personnel under their direction;
  - 4) Assure that they and their staff are informed about export controls and the resources available to enable compliance;
  - 5) Contact and cooperate with VEC to evaluate and manage potential export control issues such as shipping, travel, and deemed exports.
  - 6) Manage prevention of unauthorized distribution of export controlled technology, items, or information and/or assist in the application for an export license;
  - 7) Coordinate and cooperate with VEC to obtain necessary export licenses from the appropriate federal agency. If that license is granted with provisos, the PI must ensure that the conditions of the license are met and maintained.

### **8.2.6 CENTRAL OFFICES**

Many central offices coordinate with VEC in support of an export review. It is each individual central office's responsibility to communicate and consult with VEC. These offices may include:

- Office of General Counsel (OGC) – Legal counsel for the University and institutional compliance
- Office of Risk and Insurance Management– Internal audit, as well as enterprise risk management
- Sponsored Programs Administration (SPA) – Sponsored research agreements
- Center for Technology Transfer & Commercialization (CTTC) – Intellectual property and licensing
- Vanderbilt Environmental Health & Safety (EHS) – Biological and chemical safety
- Purchasing & Payment Services – Procurement and disbursements
- Global Safety – International Travel
- International Students & Scholar Services (ISSS) – Support services to international students and scholars
- Office of Employee Immigration Services (OIS) – Support services to international employment- based visas and permanent residency
- Human Resources (HR) – Recruitment and benefits
- Vanderbilt University Information Technology (VUIT) – Information technology and security

### **8.2.7 DEPARTMENTS/UNITS**

University academic centers, departments and institutes are responsible for supporting the VPRI and the ECO in implementing procedures deemed necessary to ensure the University's compliance with export control laws.

Deans, Directors, Unit Chairs, and Administrative Officers are "Leaders" that share the responsibility of

- 1) Overseeing export control compliance in their respective Units;
- 2) Supporting the export compliance program
- 3) Guiding researchers and staff in their export compliance responsibilities;
- 4) Promote export compliance awareness within their respective Units by facilitating training and informing the PI and VEC of export control issues such as shipping, travel, and deemed exports.

For an organizational chart, see ORGANIZATIONAL CHART.

## **8.3 IMPACT ON UNIVERSITY ACTIVITIES**

As detailed in Section 7.5 Important Export Control Exclusions to Universities, most university activities are not subject to export controls. However, export control has touchpoints on many daily operations. For a general guide in determining applicability of export controls to University activities, use the Export Control Decision Tree, see EXPORT CONTROL DECISION TREE. In addition, University personnel can contact the VEC

office at any time for an export control review. The subsequent sections detail the types of reviews and services offered by the VEC office.

### 8.3.1 RESEARCH

A central purpose of Vanderbilt University is to create and disseminate knowledge in an open and free research environment. However, the University recognizes that some research may be subject to export control laws and regulations.

#### 8.3.1.1 EXPORT CONTROLLED RESEARCH

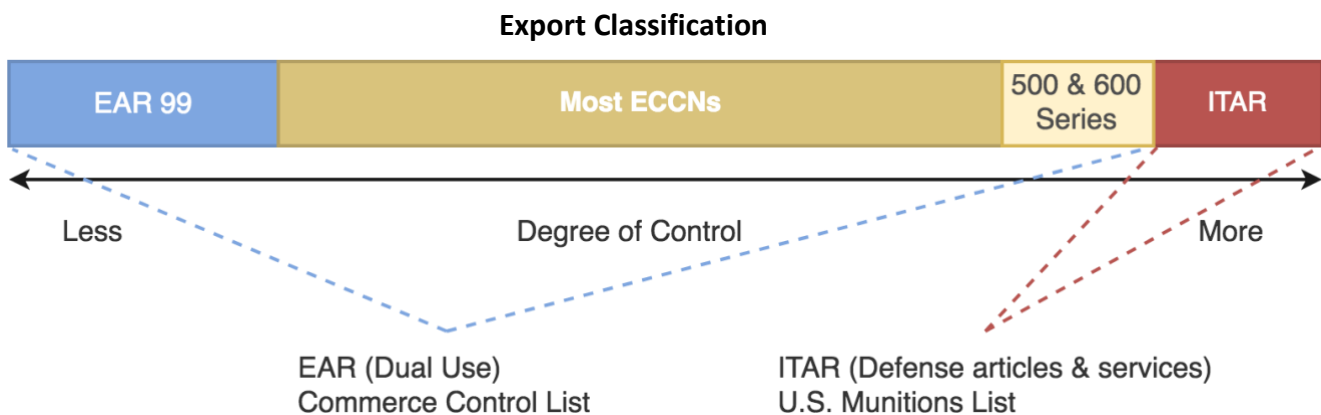
Most university research is considered to be fundamental and is excluded from export controls under the FRE. However, export controlled information may be provided in sponsored projects. The FRE does not apply to export controlled information the University receives from other parties.

Questions or concerns about the applicability of export controls within research should be directed to VEC.

#### 8.3.1.2 EXPORT CLASSIFICATION

How do you know if your research is export controlled? Most items and information are controlled to some degree. However, it should be noted that while almost every item located within the United States is *subject* to export controls, most do not require an export license.

The degree of control for an item or technology depends on its export classification. The best resource for an accurate classification is to contact the manufacturer or sponsor. If additional assistance is needed, VEC can help determine a self-classification.



*\*Graphic may not be to scale*

The two primary types of export controlled items and technology are EAR and ITAR. Research subject to the EAR involves dual-use items and technologies and has a broad range of control. The degree of restriction depends on the reason for control and destination. Research subject to the ITAR, is highly controlled. Recall the ITAR regulates defense articles and services. Access is restricted to all foreign nationals, wherever located. Generally speaking, an item or technology will only be regulated by one agency. If listed on both the EAR and ITAR, ITAR will take precedence.

In reference to section: TRAVEL HAND-CARRY OF VANDERBILT PROPERTY, INTERNATIONAL SHIPMENTS, LAB INVENTORY

### 8.3.1.2.1 EXPORT CONTROL CLASSIFICATION NUMBER (ECCN)

The Export Control Classification Number (ECCN) is a BIS classification of dual-use items that are subject to the EAR. For example, ECCN 3A999 describes “specific processing equipment” such as mass spectrometers and chromatography instruments.

Each ECCN is unique and the restrictions are detailed in the ECCN description. Degree of restriction varies per item based on the reasons for control. For example, one item may be restricted to embargoed countries only (low degree of control) while another item may be restricted to all countries except Canada (high degree of control). All ECCNs are listed in the Commerce Control List (CCL) ([Part 774 of the EAR](#))

The CCL is divided into ten broad categories, and each category is further subdivided into five product groups:

Categories List	Product List
0 Nuclear Materials, Facilities & Equipment [and Miscellaneous Items]	A Systems, Equipment, and Components
1 Materials, Chemicals, “Microorganisms”, and Toxins	B Test, Inspection, and Production Equipment
2 Materials Processing	C Material
3 Electronics Design, Development and Production	D Software
4 Computers	E Technology
5 Part 1: Telecommunications Part 2: Information Security	
6 Lasers and Sensors	
7 Navigation and Avionics	
8 Marine	
9 Aerospace and Propulsion	

#### 8.3.1.2.1.1 EAR99

EAR99 is a designation for items that are subject to the EAR but are described by an ECCN on the CCL. EAR99 items have the lowest level of control and under most circumstances do not require an export license. They are mainly of concern when dealing with sanctioned or embargoed countries, denied or blocked parties, or when being used for a prohibited end-use.

#### 8.3.1.2.2 ITAR CATEGORY

The ITAR Category is a DDTTC classification of defense articles and services subject to the ITAR. All defense articles and services are listed on the USML in 21 categories (see chart) and are highly regulated. A detailed listing can be found in [22 C.F.R 121.1](#). ITAR-controlled articles and services are restricted to all foreign nationals and destinations, wherever located.

<b>Category I</b>	Firearms, Close Assault Weapons and Combat Shotguns
<b>Category II</b>	Guns and Armament
<b>Category III</b>	Ammunition/Ordnance
<b>Category IV</b>	Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs, and Mines
<b>Category V</b>	Explosives and Energetic Materials, Propellants, Incendiary Agents, and Their Constituents
<b>Category VI</b>	Surface Vessels of War and Special Naval Equipment
<b>Category VII</b>	Ground Vehicles
<b>Category VIII</b>	Aircraft and Related Articles
<b>Category IX</b>	Military Training Equipment and Training
<b>Category X</b>	Personal Protective Equipment
<b>Category XI</b>	Military Electronics
<b>Category XII</b>	Fire Control, Range Finder, Optical and Guidance and Control Equipment
<b>Category XIII</b>	Materials and Miscellaneous Articles
<b>Category XIV</b>	Toxicological Agents, Including Chemical Agents, Biological Agents and Associated Equipment
<b>Category XV</b>	Spacecraft Systems and Related Articles
<b>Category XVI</b>	Nuclear Weapons Related Articles
<b>Category XVII</b>	Classified Articles, Technical Data, and Defense Services Not Otherwise Enumerated
<b>Category XVIII</b>	Directed Energy Weapons
<b>Category XIX</b>	Gas Turbine Engines and Associated Equipment
<b>Category XX</b>	Submersible Vessels and Related Articles
<b>Category XXI</b>	Articles, Technical Data, and Defense Services Not Otherwise Enumerated

### **8.3.1.3 INTELLECTUAL PROPERTY (IP) AND MATERIAL TRANSFER (MTA)**

Export controlled research sometimes involves the protection of Intellectual Property (IP). Vanderbilt’s Center for Technology Transfer & Commercialization (CTTC) assists with issues related to Intellectual Property (IP), such as patents, licensing, invention disclosures, and material transfers. The CTTC consults VEC when a patent, license, or transfer may have export issues.

#### **8.3.1.3.1 PATENT INFORMATION**

Information in patents and open (published) patent applications available at any patent office is not subject to export controls:

- 1) The EAR ([15 CFR §734.10](#)) excludes “information contained in a patent application.”
- 2) The ITAR ([22 CFR §120.34](#)) excludes “patents available at any patent office.”

While the exact information contained in the patent or application is free from export restrictions, variations on the information, or the application of the information, may be controlled depending on the technology.



### 8.3.2 RESTRICTED PARTIES SCREENING (RPS)

Certain governments, groups, individuals, and companies are subject to trade sanction programs and other restrictions enforced by the Office of Foreign Assets Control (OFAC) and Bureau of Industry and Security (BIS). These targeted foreign organizations and individuals are typically engaged in activities that threaten US national security, foreign policy, or economy. They are listed on denied or blocked parties lists, such as the Denied Persons List (DPL) or Specially Designated National (SDN) list, or Entity List, and we are restricted in our interactions with them. Restrictions vary depending on the nature of debarment.

A Restricted Parties Screening (RPS) is a process by which a group, entity, and/or individual name is checked against the denied or blocked parties lists. It is recommended to perform an RPS before transacting with a foreign person or entity.

University personnel can request an RPS or conduct it themselves,

- 1) Complete a [VEC Screening Request](#) via REDCap with VEC; or
- 2) Self-screen using the free, consolidated screening tool at [trade.gov](https://trade.gov)

If personnel perform a self-screening and name run returns a positive result or risk alert, the screener should contact [vec@vanderbilt.edu](mailto:vec@vanderbilt.edu) immediately. Additional review may be needed before proceeding with the proposed activity. VEC will advise the PI or Unit, which may include vigilance, a control plan, or refraining from the activity.

Several of the University's central offices perform an RPS as a part of their normal business process using a commercial software application called Visual Compliance. This is a subscription-based consolidated screening tool that allows simultaneous screening of multiple international and federal agency lists in one search. If University personnel would like to screen using Visual Compliance, they should complete the Restricted Parties Screening Request above. Any search that returns a positive match is consulted with VEC.

Who is screened	Performs screening
All employment, J1, and F1 visas	VEC
All personnel identified in a Technology Control Plan	VEC
Foreign parties identified in a VEC export review request (VDEQ, VIS, ITQ, SHIP, etc.)	VEC
Foreign parties identified in procurement or disbursements	Procurement & Payment Services
Foreign collaborators in intellectual property transactions (MTA, patent, license)	VEC
Foreign sponsors or collaborators to research agreements	SPA

For VEC internal office procedure, see STANDARD OPERATING PROCEDURES (SOP).

In reference to Sections: FOREIGN NATIONAL VISITORS (VIS), INTERNATIONAL SHIPMENTS

### 8.3.3 FOREIGN NATIONAL

A Foreign National (or non-U.S. Person) is considered anyone who is not a U.S. Citizen, Permanent Resident, or other protected individual.

Foreign nationals are invited to the University from all around the world to study, train, teach, and collaborate and are important to the University's research mission. As we welcome these foreign nationals, we should understand the possibility of a deemed export and obtain an export license when necessary.

A deemed export is the transfer of export controlled technology or technical data to a foreign national within the United States. Exposing a non-U.S. Person to export controlled information is considered the same as exporting information directly to that person’s country. It can occur not only when the technology or data is shared with a foreign national, but also when a U.S. person provides technical assistance on the development, production, or use of export controlled technology to a foreign national. Methods of transfer can include email, visual inspection, conversation, observation, or demonstration.

Central offices that are responsible for University immigration are:

- Office of Employee Immigration Services (OIS) – employment visas
- International Student and Scholar Services (ISSS) – visitor visas

**8.3.3.1 VISA DEEMED EXPORT QUESTIONNAIRE (VDEQ)**

Deemed export certification is a federal requirement for H1B, O1, and L1 employment visas. The University also certifies deemed export for other employment visas (e.g. E3 and TN) as well as J1 visas for consistency and best practice. The [Visa Deemed Export Questionnaire \(VDEQ\)](#) is a REDCap digital survey that fulfills the University's compliance requirement and helps VEC determine if an export license is necessary; it also helps VEC work with the PI/Unit to develop best practices and resolve any concerns.

Required	Not Required
All employment visas (H1B, O1, L1, E3, TN, etc.)	Students enrolled in a degree seeking programs at Vanderbilt
All J1 visas	Permanent Residents (Green Card holders)
	Asylum Refugees as granted by the U.S. Gov.

For VEC internal office procedure, see STANDARD OPERATING PROCEDURES (SOP).

**8.3.3.2 FOREIGN NATIONAL VISITORS (VIS)**

A visitor is anyone who is not University personnel (faculty, staff, student, post doc, intern, etc.) and is on University property. Examples of a foreign national visitor might be collaborating faculty, or conference speakers and attendees. Before inviting a foreign national visitor, it is important to determine if an export license is needed.

Though a visit is temporary, a host should consider a deemed export prior to the visitor’s arrival. An export can occur regardless of the length of the visit.

- Will the visitor be exposed to any technology or information that is controlled?
- Is the visitor from a sanctioned country?
- Is the visitor or their associated organization a denied or blocked party?

To help answer the above questions and evaluate the risk of a deemed export during a visit, it is recommended that the host complete the [Foreign National Visitor Form \(VIS\)](#) via REDCap.

See also RESTRICTED PARTIES SCREENING (RPS).

For VEC internal office procedure, see STANDARD OPERATING PROCEDURES (SOP).

**8.3.3.2.1 FOREIGN NATIONAL VISITOR BEST PRACTICES**

- Advise, in advance, all areas and individuals affected by this visitor to ensure information, items, area, etc. are secured appropriately. Just because you do not have controlled material does not

mean your neighbor does not have any.

- Limit access, both physical and information systems, to only that which is needed to fulfil their purpose.
- Ensure visitors are escorted at all times.
- Maintain a visitor logbook and record pertinent information.

#### **8.3.4 INTERNATIONAL TRAVEL (ITQ)**

University personnel often travel abroad as a positive part of their ongoing scholarly efforts. While international travel is free of export concerns under most circumstances, there are several factors that may cause it to be impacted by export controls. In order to protect the University, its research, and its personnel, it is important to consider:

- 1) Where are you going?
- 2) What are you taking with you?
- 3) What are you doing and who will you interact with?

Travelers to countries with U.S. State Department level 3 and 4 advisories will be prompted to complete the Office of Global Safety's Vanderbilt Travel Risk Assessment Committee (VTRAC) for. VEC will automatically receive and review research-related VTRAC responses and, when appropriate, provide travel advice. For all other travel, it is recommended to complete an [International Travel Questionnaire \(ITQ\)](#) when traveling abroad to help address the above questions and assess the need for a license or other export compliance considerations. It is also important to consider each trip separately as regulations change frequently.

For VEC internal office procedure, see STANDARD OPERATING PROCEDURES (SOP).

##### **8.3.4.1 TRAVEL TO EMBARGOED OR SANCTIONED COUNTRIES**

Travel to most countries is not restricted or prohibited. However, the Department of Treasury, Office of Foreign Assets Control (OFAC) broadly regulates and restricts interactions with embargoed countries. These restrictions vary depending on the country and change frequently depending on our economic and political relations. OFAC sanctions of embargoed countries prohibit the transfer of assets (any value) and other transactions. Countries with the most comprehensive sanctions will require an export license for almost all activity; contact VEC or review the VEC website for the most current information on embargoed and/or sanctioned countries. Additionally, a list of sanctions is located on the [OFAC Sanctions Programs and Country Information](#) site.

##### **8.3.4.2 TRAVEL HAND-CARRY OF UNIVERSITY PROPERTY**

When you travel abroad, everything you take with you is considered an export. This applies not only to tangible items such as a laptop, but also to intangible items such as data. Some examples include scientific equipment, biological agents, chemicals and toxins, software, and/or research data. A license may be required depending on the types of items taken or transmitted, which countries and individuals are visited, or whether defense services are provided to a foreign entity or individual.

##### *Research Data and Information*

Travelers are free to take and openly discuss any data or information that is published, in the public domain, is normally taught as part of a class or that resulted from Fundamental Research. However, you cannot take or share data or information that is in any way export controlled, such as information about export controlled technologies, proprietary information, or the results of a project not protected under the FRE and subject to other restrictions. Sharing these types of information may constitute an unauthorized export.

### Items and Equipment

When taking items or equipment on international travel, you may need to know the Export Control Classification Number (ECCN). Please refer to the chart below for items most commonly taken that, under most circumstances, do not require a license.

Common Travel Items	ECCN
Laptop	5A992
iPhone & iPad, Android Cell Phone/Tablet	5A992
Flash Drives (most)	5A992
Commercially available basic software (Microsoft Office)	Varies

If an item is not listed above, the best resource for an accurate ECCN is to contact the manufacturer or sponsor. If additional classification assistance is needed, VEC can help with a self-classification, see EXPORT CLASSIFICATION.

#### 8.3.4.2.1 LICENSE EXCEPTION - TEMPORARY EXPORT (TMP)

If it is necessary to take University-owned physical items internationally that would require an export license, some may be *temporarily* exported under the [Temporary Export Exception \(TMP\), 15 CFR 740.9](#). The TMP is an exemption from export controls and no license is required to take your item when certain conditions are met.

Eligible (all conditions must apply)	Not Eligible
Used as a “tool of the trade”	Military items
Remains under your “effective control”	EAR satellite or space-related items
Returns within 12 months or is destroyed	High-level encryption products
Controlled technology is <i>not</i> released or shared overseas	When traveling to an embargoed or sanctioned country

To use the TMP one only needs to document its use; no filing with the government is necessary. Complete the [International Travel Questionnaire \(ITQ\)](#) to assist with documentation.

#### 8.3.4.3 TRAVEL PURPOSE AND RESTRICTED PARTIES

The travel purpose should be considered as well. Research conducted abroad does not qualify for the FRE and may be subject to export controls. In addition, any purpose with a defense application or an end-use that is prohibited requires additional review. If the travel purpose is military in nature or field research is being conducted abroad, it is recommended to complete an International Travel Questionnaire to assist with evaluating export risk. If teaching abroad, content should be limited to that of a catalog course. If data is being presented or shared, it should be limited to only that which is published or qualifies for the FRE. The same applies when collaborating while abroad and what is shared with foreign collaborators.

#### 8.3.4.4 TRAVEL BEST PRACTICES

Once outside the U.S. one does NOT have privacy. Property may be seized and searched without probable

cause. It is recommended that items taken are documented to help prove that you had the items before you left the United States.

**If you do not need it, do not take it with you!**

<i>Do...</i>	<i>Don't...</i>
Take a clean laptop or prepaid disposable/burner cell phone	Assume Wi-Fi is secure
Utilize Virtual Private Network	Use internet cafes and untrusted networks
Disable Bluetooth	Travel with or access any controlled data
Protect your research; back up your data	
Use password systems and personal firewalls	
Maintain "effective control" of your devices	
Dispose of a flash drive after inserting it into someone else's computer	

It is **illegal** for U.S. persons to bribe a foreign official. Review the federal [Foreign Corrupt Practices Act \(FCPA\)](#) anti-bribery provisions.

The traveler is responsible for securing information that is on his or her device, both personal and University-owned.

### **8.3.5 INTERNATIONAL SHIPMENTS**

When shipping tangible, physical items outside the U.S. it is important to remember the FRE does not apply, even if the item was created under the FRE. When shipping an item internationally, it is recommended to complete an [International Shipment Form](#) via REDCap. This form helps assess licensing needs as well as reporting requirements. Please note, just because an item is subject to export controls does not mean it will require a license to ship.

An integral part of assessing licensing needs will be determining the export classification of the item to be shipped. The export classification will indicate the reasons for control and restricted destinations. If you do not know the classification, See EXPORT CLASSIFICATION. The intended end-use or what the item will be used for should also be evaluated. For example, shipment of a commercial item with a typically low level of control that is intended to be used for military or space purposes would be restricted and require a license. In addition, certain destinations are comprehensively sanctioned and virtually all interactions are prohibited without an export license from the U.S. Government.

Special Note: VEC reviews shipment information to determine export license and/or reporting requirements only ; VEC is not a shipping service and cannot process shipments. It is the responsibility of the employee to ensure all shipments are in conformance with applicable regulations governing the licensing, packaging, and shipment of materials. For University-preferred shipping vendors see the following please work with Procurement.

For VEC internal office procedure, see STANDARD OPERATING PROCEDURES (SOP).

#### **8.3.5.1 SHIPPING CHEMICALS, BIOLOGICAL AGENTS, OR TOXINS**

The U.S. Government restricts the shipping of some bacteria, fungi, toxins, or virus. Shipments involving these controlled agents will require an export license. For a list of controlled biological agents see the [Controlled Chemicals Guide](#) and the [Restricted Biological Agents guide](#). Consult Vanderbilt Environmental Health and Safety (EHS) for additional requirements.

### **8.3.5.2 DOMESTIC SHIPMENTS**

Generally speaking, domestic shipments do not require a license, unless the shipper has knowledge that the shipment will be exported or is intended for an end-user of concern or for a prohibited end-use.

### **8.3.5.3 END USE STATEMENT (EUS)**

500 & 600 series EAR items and technology and ITAR technology have a higher degree of control. It is recommended to complete an End-User Statement (EUS) form for shipments of these items. See STANDARD OPERATING PROCEDURES (SOP).

This statement should be completed by the consignee or end-user, and it documents the intended end-use or the ultimate purpose of the item. EUS includes a statement by the recipient that the items shipped will only be used for intended purposes and not used contrary to U.S. national interests. Keep alert to the following, which may indicate a possible concern with the shipment transaction:

- 1) End-user is reluctant to offer information about the end-use of the item.
- 2) End-user is evasive, and/or unclear
- 3) Vague delivery dates
- 4) Out of the way destination for delivery of item or information
- 5) Abnormal shipping route

### **8.3.6 LAB INVENTORY**

The PI may opt to develop an inventory of all items in the laboratory to help determine whether any technology, information, or items in the laboratory are subject to export control regulations. Some examples might be a lab that conducts controlled research, or a core facility that allows external visitors.

An efficient lab inventory should include the export classification for items, *See* EXPORT CLASSIFICATION. The best resource for an accurate EAR or ITAR classification is to contact the manufacturer or sponsor. If additional assistance is needed, VEC can help determine a self-classification. If any technology, information, or items in the laboratory are subject to export control regulations, VEC and the PI may proceed with a control plan to secure access.

### **8.3.7 PROCUREMENT AND DISBURSEMENTS**

All suppliers to the University must abide by U.S. economic sanctions or trade embargoes whether they apply to foreign countries, political organizations, or particular foreign individuals and entities.

The office of Procurement & Payment Services performs a Restricted Parties Screening (RPS) on all involved in financial transactions with the University. This includes procurement and disbursements with foreign nationals, foreign entities, and foreign vendors. If a name match is returned, they will contact VEC to assist.

### **8.3.8 SPONSORED RESEARCH**

Sponsored research proposals and agreements (“agreements”) play an important role in export compliance, and Sponsored Programs Administration (SPA) is an important partner in the export compliance program as they help identify red flags that indicate possible export control issues and refer them to VEC for review. At all stages and before work begins on a research project (sponsored or non-sponsored), VEC recommends that all Unit and contract negotiators to be aware of potential export control issues and communicate with VEC early and often.

#### Red Flags:

- References to U.S. export regulations (beyond a mere statement to comply with the law);

- Sponsor provided export controlled materials (e.g. Controlled Unclassified Information (CUI))
- Requires participation in the boycott of a country, such as Israel
- Troublesome Clauses that negate the FRE
  - *Publication* (requires sponsor approval)
  - *Participation* based on nationality
  - *Dissemination* (limits who can access);
- Data security requirements (e.g. NIST SP 800-171);
- Required security clearance or DDTC registration
- Inclusion of a DD Form 254 or DD Form 2345 (military forms)

For VEC internal office procedure, See STANDARD OPERATING PROCEDURES (SOP).

### 8.3.8.1 ANTI-BOYCOTT RESTRICTIONS

The Department of Commerce has set forth anti-boycott laws that prohibit U.S. institutions and companies from participating in another nation’s economic boycotts or embargoes. An example of this would be the Arab League’s boycott of Israel.

If the University is asked to enter into an agreement or provide information that would violate anti-boycott laws, it must report it to the Government, even if the term is negotiated out of the research agreement. The following are red flags to look for in research agreements for signs of a boycott request:

- Agreements to refuse or actual refusals to do business with a country or with blacklisted companies.
- Agreements to discriminate or actual discrimination against other persons based on race, religion, sex, national origin, or nationality.
- Furnishing information about business relationships with another country or with blacklisted companies.
- Paying or otherwise implementing letters of credit that include requirements to take boycott-related actions prohibited by the anti-boycott regulations.

### 8.3.8.2 TROUBLESOME CLAUSES

Troublesome clauses may be found in agreements and negate the ability to use the Fundamental Research Exclusion (FRE). These clauses contain restrictions on one of the following:

- *Publication* (requires sponsor approval)
- *Participation* based on nationality
- *Dissemination* (limits who can access);

They can be encountered at both the prime and sub level. The general restrictions may appear in any type of research agreement, but most often appear in industry contracts with a defense agency prime. Presence of these clauses negate the Fundamental Research Exclusion (FRE) and subject the project to the full weight of export controls. Examples are as follows:

Restriction	Clause
Publication	<b>DFARS 252.204-7000</b> Disclosure of Information
	<b>FAR 52.227-17</b> Special Works
	<b>FAR 52.227-14</b> Rights in Data
Participation	<b>NFS 1852.225-71</b> Restriction on Funding Activities with China
	<b>AFRL 52.004-440</b> Foreign Nationals Performing Under Contract

	<b>ER 52.0000-4017</b> Foreign Nationals
	<b>DEAR 952.204-71</b> Sensitive Foreign Nations Controls
Dissemination	<b>DFARS 252.204-7008</b> Compliance with Safeguarding Covered Defense Information
	<b>DFARS 252.204-7009</b> Requirements Regarding Potential Access to Export-Controlled Items
	<b>DFARS 252.204-7012</b> Safeguarding Covered Defense Information and Cyber Incident Reporting
	<b>NFS 1852.225-72</b> Access to Sensitive Information
	<b>NFS 1852.204-73</b> Release of Sensitive Information

*\*List is not all inclusive*

### **8.3.9 ACCESS AND CONTROL PLANS**

Technology, information, or items classified as export controlled may be unlawful to disclose, in any manner, to a foreign national both inside and outside the U.S. without an export control license. In cases where it is determined that export controlled technology or technical information must be protected, it may be necessary to restrict access by unauthorized non-U.S. persons. Security measures, developed with the guidance of VEC, should be designed to protect the technology involved. An access or control plan details what needs to be protected and how you are going to protect it.

In reference to Section MONITORING AND AUDITING.

#### **8.3.9.1 FACILITY ACCESS PLAN (FAP)**

A Facility Access Plan is typically facility specific and identifies controls for securing access to a tangible technology or item. Examples of situations that require a FAP may include securing a lab that houses ITAR controlled equipment or restricting access to an area that does research on export controlled projects.

For VEC internal office procedure, *see* STANDARD OPERATING PROCEDURES (SOP).

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

A Technology Control Plan is typically project specific and outlines controls necessary to secure access to items or technology. Examples of situations that require a TCP may include securing research information that requires safeguarding or securing information that is restricted from public release.

VEC works with SPA and PIs to determine if a TCP is needed. If it is determined that security measures are necessary, VEC will work with the PI to develop and implement a TCP to secure the controlled technology. The TCP is a self-implemented and self-assessed demonstration that sufficient measures and procedures are in place to prevent unauthorized access.

Before work on the controlled project may begin, a Technology Control Plan must be approved by the EO or delegated authority. All project personnel must sign the TCP and complete training provided by VEC as well as cybersecurity training provided by VUIT.

For VEC internal office procedure, *See* STANDARD OPERATING PROCEDURES (SOP).

#### **8.3.9.3 CONTROLLED UNCLASSIFIED INFORMATION**

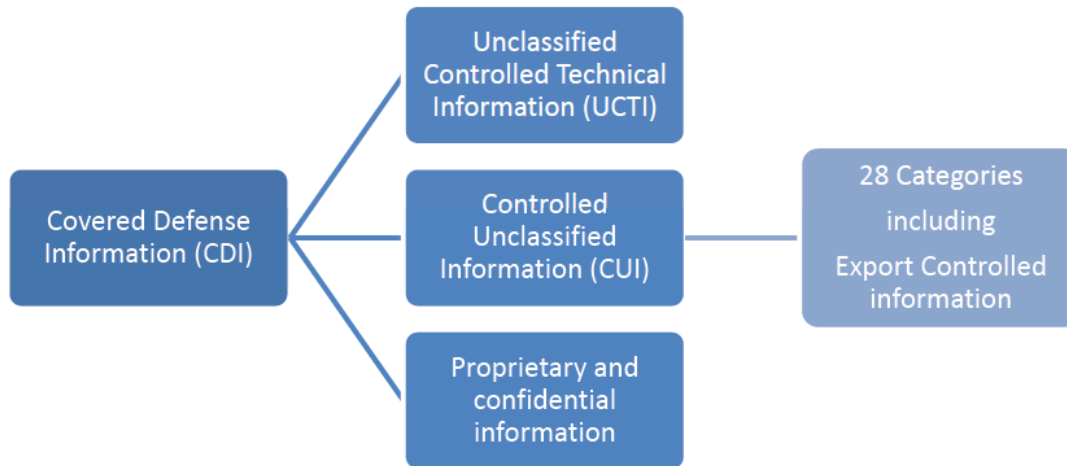
Controlled Unclassified Information (CUI) is unclassified information the Government creates or possesses, or that an entity creates or possesses for or on behalf of the Government, that is collected, developed, received, transmitted, used, or stored on behalf of the contractor in support of the performance of the



contract. CUI and the 28 types of CUI are described here: <https://www.archives.gov/cui>.

Covered Defense Information (CDI) is a somewhat outmoded term that has a definition mirroring that of CUI. The terms are sometimes used interchangeably; however, CUI is a type of CDI. Both CUI and CDI are types of controlled information that need a higher degree of security.

Export Controlled Information (ECI) is a type of Controlled Unclassified Information (CUI). While all export-controlled information is CUI, not all CUI is export-controlled.

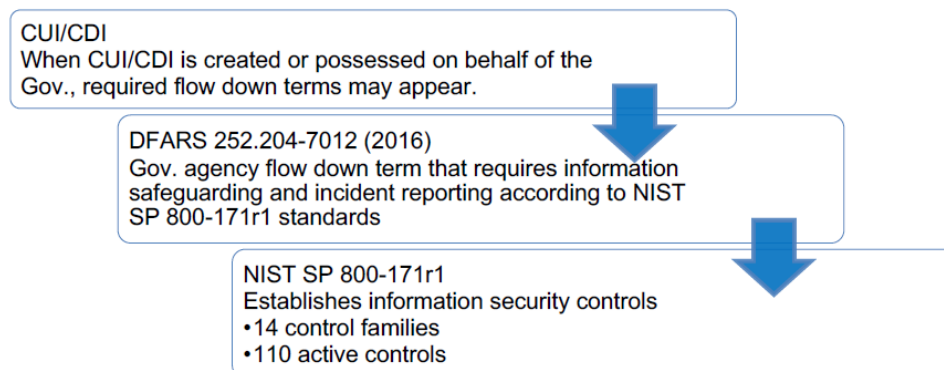


#### 8.3.9.4 DFARS 252.204-7012 / NIST 800-171 COMPLIANCE

When export controlled information, or other type of CUI/CDI, is provided by a sponsor in a research project, the agreement between the University and the funding sponsor should contain the DFARS 7012 clause, [48 CFR 252.204-7012 - Safeguarding covered defense information and cyber incident reporting](#). This clause is a mandatory flow-down from the Department of Defense and most often appears in industry contracts with defense agencies. It requires the University have means to accomplish the following:

- 1) Information security controls to safeguard the CUI
- 2) Cyber incident reporting structure

The clause also stipulates that the information security implemented must be NIST SP 800-171 compliant.



NIST SP 800-171 is a standard in technology for non-federal information organizations that outlines 110+ security controls categorized by 14+ control families covering access control, awareness and training, configuration management, personnel security, and other related issues. While these controls outline what security is needed, there is no single prescribed way to meet a certain control. Accordingly, depending on a Unit's existing IT system and the needs of the project (e.g. software, remote access, removable media), the

NIST compliant solution may vary per unit.

NIST 800-171 is heavily IT-related, therefore a Unit and PI must work closely with Vanderbilt University Information Technology Services (VUIT) to address the requirements. Other offices involved will include VEC, SPA, and OGC. A Unit/PI's NIST-compliant solution must be reviewed by central offices and ultimately the Vice Provost for Research and Innovation prior to execution of the funding agreement.

Full compliance is typically demonstrated across multiple documents:

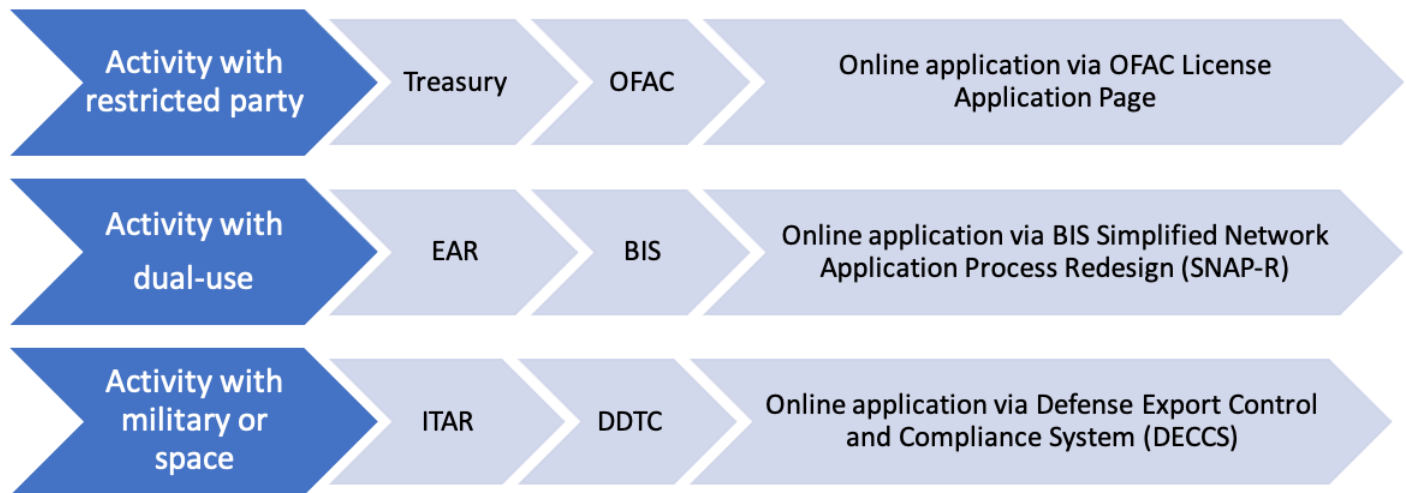
<b>Document</b>	<b>Primary Responsibility</b>	<b>Support Office</b>	<b>Required</b>	<b>Description</b>
Unit policies	Unit		If necessary	Documents what project personnel can and cannot do with CUI
System Security Plan (SSP)	Unit	VUIT	Required	Details roles (such as system ownership), the information system description, and 110 individually implemented controls
Plan of Action and Milestones (POAM)	Unit	VUIT	If necessary	Describes any short falls or substitutions along with the plan of implementation
Incident Response Plan (IRP)	Unit	VUIT	Required	Explains what to do in case of a breach.
Technology Control Plan (TCP)	Unit	VEC	Required	Details any additional requirements, such as foreign national restrictions. Can be used as a central reference location for all NIST documents.

## **8.4 EXPORT CONTROL LICENSE**

### **8.4.1 EXPORT CONTROL LICENSE APPLICATION**

If a proposed activity is restricted by export controls, and an exemption is not available, an export license is required in order to proceed with the activity. Examples of situations that may require an export license may include, hiring an individual who is listed as a denied or blocked party who's work would be subject to the EAR; shipping a controlled biological agent abroad; allowing a foreign national to participate in an ITAR restricted research project.

An export control license is issued by a governing agency and authorizes the export, re-export, or other regulated activity. You must know what is restricted in order to know which agency to apply for a license.



A note on ITAR licensing: Vanderbilt University is not registered with the Department of State, DDTC. Therefore, it is not eligible to apply for licenses or utilize license exceptions for technology that is ITAR-controlled.

Licensing needs are determined by VEC, typically from an export review request detailed in Section IMPACT ON UNIVERSITY ACTIVITIES. If VEC determines an export license is needed for a proposed activity, VEC will work with the PI/Unit to determine next steps. If it is decided to proceed with the license application, appropriate internal approvals must be obtained and no activity may proceed until a license has been issued. The license determination timeframe can vary from 1 to 6 months depending on the request type and parties involved. It may be necessary to implement an access or control plan while waiting for the agency's determination.

If a license is granted by the U.S. Government, only the exact persons and activities listed are authorized. Any variations require new licensing approval. In addition, while licenses are granted to the University, it is the responsibility of the PI for ensuring all provisions of the license are followed.

For VEC internal office procedure, see STANDARD OPERATING PROCEDURES (SOP).  
In reference to Section: MONITORING AND AUDITING.

#### 8.4.2 LICENSE EXCEPTIONS

The U.S. export control regulations include limited circumstances under which it is allowed to export controlled items without first obtaining a license. These license exceptions have specific criteria that must be met in order to be eligible to use. To use a license exception, the applicability of the exception must be documented in writing.

Exceptions are not available for all items, so it is important to always check availability by individual export classification. The ITAR has very few license exceptions and a researcher should contact VEC for determining use and applicability. A complete listing of EAR license exceptions and their full descriptions may be found in [15 C.F.R. Part 740](#).

<b>LVS</b>	Shipments of limited value See <a href="#">15 C.F.R. 740.3</a> .
<b>GBS</b>	Shipments to Country Group B countries See <a href="#">15 C.F.R. 740.4</a> .

<b>CIV</b>	Civil End-Users See <a href="#">15 C.F.R. 740.5</a> .
<b>TSR</b>	Technology and software under restriction (A written assurance is required from the consignee before exporting or re-exporting under this License Exception) See <a href="#">15 C.F.R. 740.6</a> .
<b>APP</b>	Computers controlled by ECCN 4A003 See <a href="#">15 C.F.R. 740.7</a>
<b>TMP</b>	Temporary imports, exports, re-exports, and transfers for use as “tools of trade” See <a href="#">15 C.F.R. 740.9</a> .
<b>RPL</b>	Servicing and replacement of parts and equipment See <a href="#">15 C.F.R. 740.10</a> .
<b>GOV</b>	Governments, international organizations, international inspections under the Chemical Weapons Convention; and the International Space Station See <a href="#">15 C.F.R. 740.11</a> .
<b>GFT</b>	Gift parcels and humanitarian donations See <a href="#">15 C.F.R. 740.12</a> .
<b>TSU</b>	Technology and software unrestricted See <a href="#">15 C.F.R. 740.13</a> .
<b>BAG</b>	Personally-owned baggage See <a href="#">15 C.F.R. 740.14</a> .
<b>AVS</b>	Aircraft, vessels, and spacecraft for fundamental research See <a href="#">15 C.F.R. 740.15</a>
<b>APR</b>	Additional permissive re-exports See <a href="#">15 C.F.R. 740.16</a> .
<b>ENC</b>	Encryption commodities, software, and technology See <a href="#">15 C.F.R. 740.17</a> .
<b>AGR</b>	Agricultural commodities to Cuba See <a href="#">15 C.F.R. 740.18</a> .
<b>CCD</b>	Consumer communications devices to Cuba See <a href="#">15 C.F.R. 740.19</a>
<b>STA</b>	Strategic trade authorization of software source code and technology See <a href="#">15 C.F.R. 740.20</a> .
<b>SCP</b>	Support for the Cuban people See <a href="#">15 C.F.R. 740.21</a>

## 8.5 TRAINING

Training is an important aspect of an export compliance program. University personnel should educate themselves on the impact of export controls in their daily activities, see VANDERBILT UNIVERSITY EXPORT COMPLIANCE POLICY. VEC requires mandatory training for some individuals and provides educational opportunities in the form of in person training by request. In addition, VEC provides an annual export compliance refresher course through online training modules that are available to take at one’s leisure.

### 8.5.1 MANDATORY TRAINING

- **VEC Annual Export Compliance Training** (projects requiring Technology Control Plans, TCP)
- **VUIT Cybersecurity Training** (projects with NIST 800-171 requirements)

### 8.5.2 OPTIONAL

#### 8.5.2.1 INSTRUCTOR LED TRAINING COURSES

Available by request

- **Fundamentals of Export Control** – Gain general awareness about export controls and various components that may affect you and your work at the University. This includes a general overview of export compliance, information regarding how export controls may affect your work in the areas and the penalties associated with export violations. Time is allotted for questions.
- **Department or Project Specific Training** – Additional training, basic or specific, can be arranged by contacting the VEC office.

### 8.5.2.2 ONLINE TRAINING

- **CITI Program Training** - Export Compliance
  - Available Modules:
    - Introduction to Export Compliance
    - Export Compliance When Using Technology in Research (ID:16804)
    - Export Compliance and Distance Education (ID: 16811)
    - Export Compliance for Researchers: Part I (ID: 16801)
    - Export Compliance for Research Administrators (ID: 16803)
    - Export Compliance and Biosafety (ID: 16805)
    - Export Compliance for Operational Departments (ID: 16806)
    - Export Compliance for International Shipping (ID: 16807)
    - Export Compliance and Purchasing (ID: 16808)
    - Export Compliance and International and Foreign Waters (ID: 16809)
    - Export Compliance and Collaborations (ID 16810)
    - Export Compliance and United States Sanctions Programs (ID 16812)
  - **Annual VEC Export Compliance Refresher Course**
    - Available via Oracle Learning in January of each year

### 8.5.3 OTHER TRAINING RESOURCES

- Refer to the **VEC website** for basic export guidance and contact information: <https://www.vanderbilt.edu/exportcompliance/>.
- The **Export Controls Decision Tree** may be used as general guidance to determine whether or not the research, shipment, export, etc. in question has export control restrictions, See EXPORT CONTROL DECISION TREE.
- The **Basic Export Guidance Flyer** may be printed and posted to assist in providing export compliance awareness to University faculty and staff. See EXPORT CONTROL BASIC EXPORT GUIDANCE FLYER.

## 8.6 RECORDKEEPING

Record retention is the responsibility of the Principal Investigator. Examples of documents to retain include Restricted Parties Screening (RPS) results, approved export review forms (e.g., VDEQ), sponsored agreements (e.g., contract), control plans (e.g., TCP), training logs, and email correspondence.

U.S. regulations require that export records be retained a minimum of five years after the last activity relating to an export. If the U.S. governing agency makes a request for records following a voluntary self-disclosure, the records must be maintained until the agency concerned provides written authorization otherwise.

Such records must be available for inspection upon request. Record content should contain at a minimum:

- 1) a description of the controlled item or information;

- 2) the name of the recipient /end-user;
- 3) the date / time of export;
- 4) the method of transmission (e.g., e-mail, telephone, FedEx); and
- 5) the exclusion or exemption under which the export took place, if applicable.

## **8.7 INCIDENT REPORTING**

Any individual who suspects a violation has occurred or may imminently occur should immediately notify VEC.

- You may report any known or suspected export violation by contacting VEC at [vec@vanderbilt.edu](mailto:vec@vanderbilt.edu) or phoning 615-343-5493.
- Reports can also be made anonymously through the **Vanderbilt University Central Confidential Hotline** at (844) 814-5935 or submitted online [here](#).

All reports will be reviewed. If an investigation is warranted, VEC will lead the investigation with involvement and advisement from OGC. If it is determined that University personnel violated export control laws and regulations and/or University policy, the individual may be subject to disciplinary action.

### **8.7.1 DISCIPLINARY ACTION**

Failure of any University employee to comply with the University's Policy on Compliance with Export Control Law and Regulation, and/or the requirements of any applicable export control regulations may result in the imposition of sanctions by appropriate University officials up to and including termination, as well as the possibility of prosecution by the federal government and the imposition of federal, civil, criminal and/or administrative penalties or sanctions.

If you have knowledge that an export violation has occurred or will occur, and you do not report it, you become subject to possible federal prosecution, and disciplinary action by appropriate University officials up to and including termination.

### **8.7.2 EMPLOYEE PROTECTION**

No individual shall be punished solely because he or she reported what was reasonably believed to be an act of wrongdoing or an export control violation. For more information, visit the University's [False Claims Act and Whistleblower Protection policy](#).

## **8.8 MONITORING AND AUDITING**

In order to maintain the University's export compliance program and ensure consistent adherence to U.S. export laws, VEC may choose to review selected laboratories or units at any time based on their activities or their technology. In general, VEC will meet with an appropriate staff member who is knowledgeable about the technology in use in that area. Potential export control issues will be evaluated for the need of a control plan or license application. See EXPORT CONTROL LICENSE APPLICATION and/or implementation of a control plan, See ACCESS AND CONTROL PLANS.

The purpose of any review is:

- To identify possible risks or violations;
- To identify deficiencies in training, procedures, etc.; and
- To provide recommendations on improvements or rectifications.

## 8.9 ADDITIONAL RESOURCES

- VEC [website](#)
- U.S. Treasury Department – Office of Foreign Assets Control ([OFAC](#)),
- U.S. Department of Commerce – Bureau of Industry and Security ([EAR](#))
- U.S State Department – International Traffic in Arms Regulations ([ITAR](#))

## 9 APPENDICES

- VANDERBILT UNIVERSITY EXPORT COMPLIANCE POLICY
- ORGANIZATIONAL CHART
- EXPORT CONTROL DECISION TREE
- STANDARD OPERATING PROCEDURES
- EXPORT CONTROL BASIC EXPORT GUIDANCE FLYER



## 9.1 VANDERBILT UNIVERSITY EXPORT COMPLIANCE POLICY

### VANDERBILT UNIVERSITY POLICY ON COMPLIANCE WITH EXPORT CONTROL LAW AND REGULATION

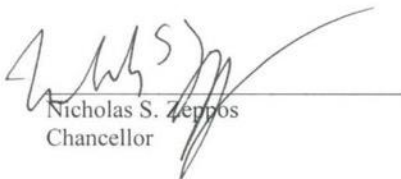
It is the policy of Vanderbilt University to comply with all applicable United States export-control laws and regulations. Export control laws and regulations prohibit the transfer of certain items and information, such as software, equipment, technical data, and other technology and information to anyone outside the U.S., or to foreign nationals, wherever located, without a license from the federal government.

A fundamental principle of the University is that the teaching and research environment should be open so that ideas can be published and exchanged freely among faculty and students. Publications, presentations at professional meetings and student dissertations and theses are an integral part of the University's research mission and should remain unencumbered by external restrictions. However, the University recognizes that instances may arise in which some University research or activities will involve the dissemination of 'technical data', information, materials or equipment that are subject to federal export control regulations and, therefore, dissemination may be restricted by export control laws and regulations.

It is the responsibility of all faculty and staff to understand any export control requirements related to his or her work and to ensure that no exports or transfers are made contrary to those requirements. This includes abiding by both the export rules and regulations set forth by the United States Government as well as any policies and procedures established by the University with respect to those rules and regulations. It also includes understanding the export implications of research and other activities undertaken at the University and obtaining the proper license prior to the export or transfer of any export controlled item, whether abroad or within the U.S. Particularly, University employees must ensure that:

- No item of equipment or biological or chemical material is sent outside the U. S. or to any foreign national (wherever located) without first determining if an export license is required; and, if required, obtaining a license.
- All domestic and international shipments are in conformance with applicable regulations governing the licensing, packaging, and shipment of the material; and
- All transfers of export controlled information or technical data, whether to an individual in a foreign country or to a foreign national in the U.S., are in compliance with applicable export control regulations and University policy.

Failure of any University employee to comply with this Policy on Compliance with Export Control Law and Regulation, and/or the requirements of any applicable export control regulations may result in the imposition of sanctions by appropriate University officials up to and including termination, as well as the possibility of prosecution by the federal government and the imposition of federal, civil, criminal and/or administrative penalties or sanctions.

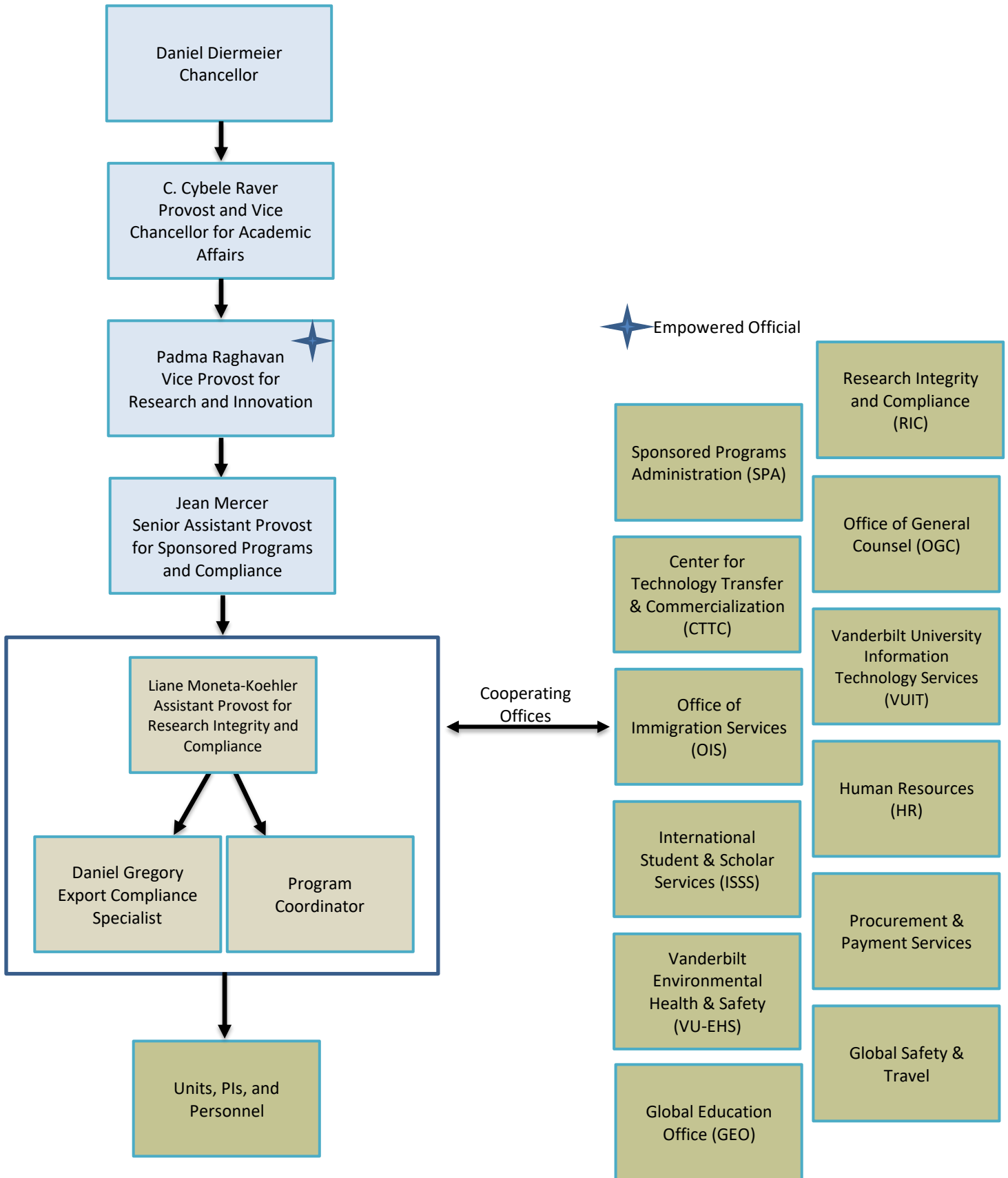
  
Nicholas S. Zeppos  
Chancellor

6/1/2009  
Date

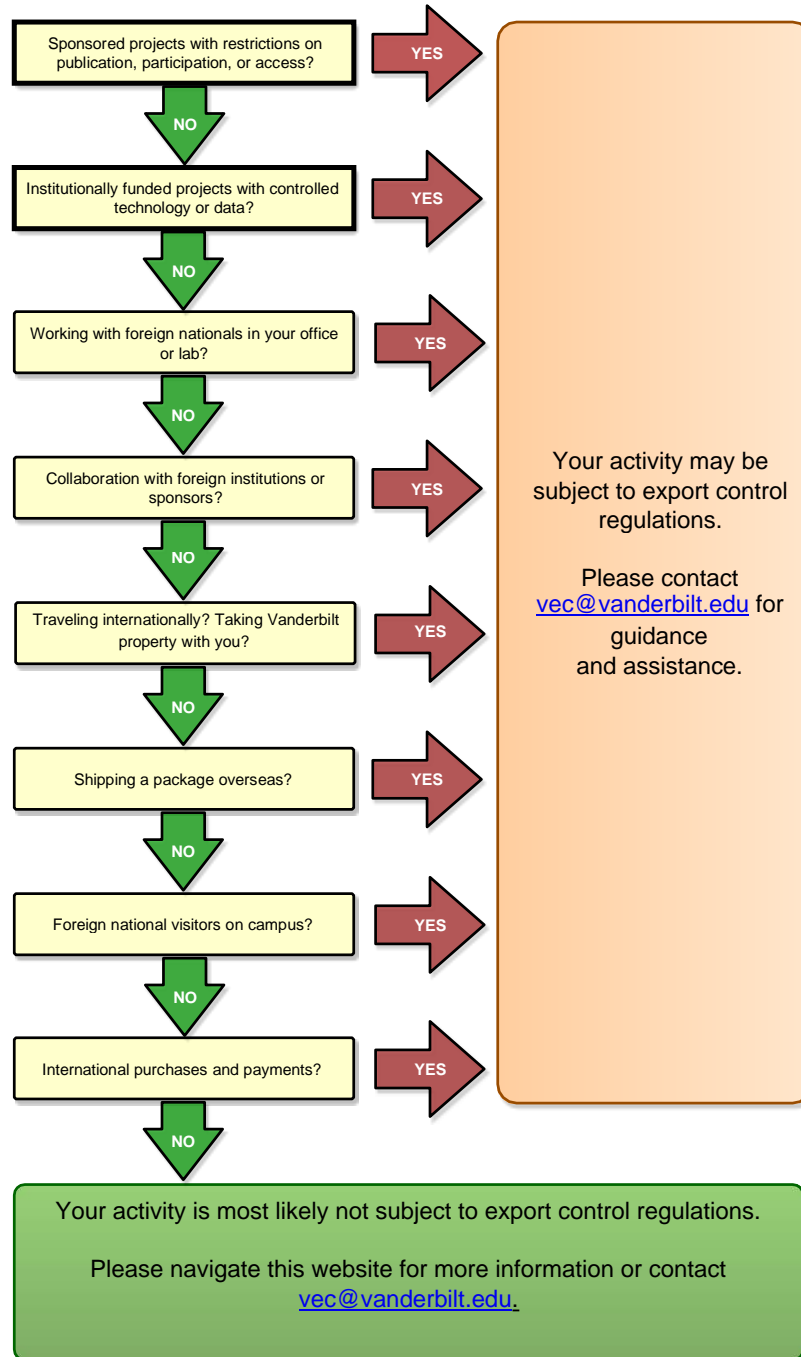
In reference to sections above: PURPOSE, POLICY AND INSTITUTIONAL COMMITMENT, TRAINING.



## 9.2 ORGANIZATIONAL CHART



### 9.3 EXPORT CONTROLS COMPLIANCE REVIEW DECISION TREE



In reference to following Sections above: IMPACT ON UNIVERSITY ACTIVITIES, OTHER TRAINING RESOURCES.

## **9.4 STANDARD OPERATING PROCEDURES (SOP)**

All SOPs can be found in: Box.com – SOPs. They are for VEC internal office use only and require log in access to view. To obtain access, a user must be added as a Collaborator by a folder owner or co-owner (Export Control Officer and Export Control Manager, respectively)

- 1) VEC Screening (RPS) SOP
- 2) Visa Deemed Export Questionnaire (VDEQ) SOP
- 3) Foreign National Visitors (VIS) SOP
- 4) International Travel Questionnaire (ITQ) SOP
- 5) International Shipments (SHIP) SOP
  - (1) End Use Statement
- 6) Sponsored Research Agreements SOP
- 7) Technology Control Plan (TCP) SOP
  - (1) Facility Access Plan (FAP)
- 8) License Application SOP

In reference to Section: RESTRICTED PARTIES SCREENING (RPS), VISA DEEMED EXPORT QUESTIONNAIRE (VDEQ), FOREIGN NATIONAL VISITORS (VIS), INTERNATIONAL TRAVEL (ITQ), INTERNATIONAL SHIPMENTS, END USE STATEMENT (EUS), SPONSORED RESEARCH, FACILITY ACCESS PLAN (FAP), TECHNOLOGY CONTROL PLAN (TCP), EXPORT CONTROL LICENSE APPLICATION.

## 9.5 EXPORT CONTROL BASIC EXPORT GUIDANCE FLYER



Sponsored projects with restrictions on publication, participation, or dissemination?

Institutional sponsored projects with controlled technology or data?

Working with foreign nationals in your office or lab?

Collaboration with foreign institutions or sponsors?

Traveling internationally? Taking Vanderbilt property with you?

Shipping a package overseas?

Foreign national visitors on campus?

International purchases and payments?

### Vanderbilt University Basic Export Guidance Vanderbilt Export Compliance (VEC)

#### What is export control?

Export Control is a group of federal laws & regulations that control products, services, and information for reasons of foreign policy and national security. Vanderbilt recognizes certain activities may be subject to export controls and is committed to complying.

#### What is an export?

Most generally think an export is a physical item you ship overseas. In actuality, an export is any transfer of an item or information to a foreign country or foreign national. This can occur abroad OR within the United States. The transmission can be oral, written, visual disclosure, a shipment, hand-carrying items while traveling, or providing technical assistance.

#### What do Vanderbilt personnel need to do?

In order to ensure compliance, it is important for university personnel to identify when their activities may trigger export controls. When export controls apply, individuals must obtain any required governmental licenses, monitor and control access, and safeguard all controlled materials.

There are four basic things to know before anything can be exported:

- What is the item or information?
- Where is it going?
- Who will receive it?
- What will the end-use be?

#### Who can help?

The **Vanderbilt Export Compliance (VEC)** office is a free resource dedicated to providing assistance and centralized resources for all university export control-related activities. We can help you determine when export controls apply and when they do not.

If you have any questions or need additional information, please visit our website for guidance or contact us directly. We're here to help!

Vanderbilt Export Compliance  
[vec@vanderbilt.edu](mailto:vec@vanderbilt.edu)  
<http://www.vanderbilt.edu/exportcompliance/>  
 or 615-343-5493

In reference to Section: OTHER TRAINING RESOURCES.