

Morgan State University

EXPORT CONTROL POLICY AND PROCEDURES

Approved by the Board of Regents on February 2, 2021

EXPORT CONTROL POLICY

I. Introduction

U.S. law and regulations restrict the export, transfer, and disclosure of certain technical and scientific data, software, and tangible items. Sanctions and embargoes maintained by the U.S. restrict or prohibit activities, financial transactions, and other transactions with sanctioned individuals, organizations and countries. The reach of the regulations is broad. Certain transactions that might not be regarded as “exports” in other contexts may constitute an export subject to regulations and embargoes.

Morgan State University (“Morgan” or “University”) is committed to complying with applicable U.S. laws and regulations pertaining to exports of items, services and technology by or on behalf of the University. Morgan’s Export Control Policy (“Policy”) applies both to exports outside the U.S., as well as to exports to foreign nationals within the U.S. The Vice President for Research and Economic Development (VPRED) has overall oversight of Morgan’s compliance with U.S. export-control laws and regulations. The VPRED and the Director of Research Compliance are the official contacts on the University’s export control issues.

II. Applicability.

This Policy applies to all activities by Morgan employees, visiting scientists, postdoctoral fellows, students, and any other persons retained by or working at or for Morgan (referred to hereinafter as “Personnel”) that may result in an export or other transaction with a foreign national, entity, or country which is subject to Export Controls and which requires an export license or other government approval.

III. Policy

Morgan and its Personnel must comply with applicable laws and regulations governing export controls. Personnel must comply with the provisions of any license, conditions of any other government approval, policy or Morgan-directed certification, technology control plan, or procedure if an export, activity, or transaction is subject to Export Controls. No Personnel may transfer any items or technology contrary to U.S. export control laws and regulations or this Policy.

Personnel with responsibility for Morgan’s export-control compliance program or whose duties include a significant amount of work with foreign nationals will be offered formal training sessions on the U.S. export-control laws and regulations and their applicability to their jobs. All Morgan employees with supervisory authority over foreign nationals or projects involving materials or technology subject to export controls should view export-control compliance as an important part of their day-to-day responsibilities. To ensure compliance with this Policy, Morgan will provide guidance on Export Control fundamentals and procedures from the Office of Sponsored Programs and Research (OSPR), Division of Research and Economic Development (D-RED).

Failure to comply with any export laws and regulations or failure to comply with this Policy may result in disciplinary action.

IV. Overview of Export Control

The Departments of Commerce, State, and Treasury administer the primary control on exports of goods or commodities. The Department of Commerce regulates the export of items and information that have civil applications, the Department of State regulates the export of items that have military applications or that relate to space, and the Department of the Treasury enforces country-specific embargoes. In certain circumstances, these agencies may require the University to secure a license before the item or information is exported to another country or shared with a foreign national. Department of Commerce controls The Bureau of Industry and Security (BIS) that implements and enforces U.S. export control regulations relating to the export of “dual-use” goods and technologies (having both civil and military applications) as well as exclusively civil items. Items subject to the jurisdiction of BIS are listed on the Commerce Control List (CCL) found in the Export Administration Regulations.

Whether a license is required to export or re-export an item on the CCL is determined by examining the precise classification of the item, the destination of the item, and the end-user. BIS also maintains the Denied Persons List and the Entities List, which identify specific persons and entities to which exports are not permitted without the prior approval of BIS. Department of State controls the Directorate of Defense Trade Controls (DDTC) of the United States, that regulates the export of defense goods, technical data, and defense services. DDTC administers the International Traffic in Arms Regulations (ITAR). The CCL covers such things as materials, chemicals, microorganisms, and toxins; materials processing; electronics; computers; telecommunications and information security; lasers and sensors; navigation and avionics materials; marine-related materials; and propulsion systems, certain space vehicles, and related equipment. (The index to the CCL is located at http://www.gpo.gov/bis/ear/ear_data.html.)

Generally, a defense article is an item developed for a military application that does not have a predominant civilian application. Unless an exemption applies, a license must be obtained before any defense article is exported to a foreign country or foreign national. Authorization by DDTC is also required for any agreement under which a U.S. person will furnish assistance to foreign persons in the development, design, production or use of a defense article or under which a U.S. person will license to a foreign party the right to manufacture U.S.-origin defense articles abroad. DDTC maintains a list of “debarred” persons and entities whose exporting privileges have been revoked as a consequence of violations of the ITAR.

A. Activities that may Trigger Export Controls

In addition to the actual export of controlled materials or information, the following activities can trigger export control violations:

- (1) Sponsorship of Foreign Nationals. A Foreign National means any natural person who is NOT a U.S. citizen, a U.S. lawful permanent resident (“a green card holder”), or a protected person, a person granted asylum, or a person granted refugee status.

- Foreign National also means any foreign corporation, partnership, association, trust, society, entity or group that is not incorporated or organized to do business in the U.S., and any international organizations or foreign governments and any agency or subdivision of foreign governments (e.g., diplomatic missions);
- (2) Research with a Foreign National;
 - (3) Using foreign national research assistants, giving Foreign Nationals access to computer networks where controlled data is stored;
 - (4) Bringing electronic devices (e.g. laptop, smartphone, thumb drive) with restricted information outside the U.S.;
 - (5) Bringing encryption software outside the U.S.;
 - (6) Contract has terms outside the Fundamental Research Exclusion (see below);
 - (7) Presentation given in foreign nations;
 - (8) Travel to foreign nations; or
 - (9) Hiring Foreign Nationals to work with controlled materials or information.

B. Countries that may Trigger Export Controls

Department of Treasury controls the Office of Foreign Assets Control (OFAC) of the U.S. Department of Treasury, which administers and enforces certain country-specific controls that take the form of economic embargoes against countries, currently including Burma (Myanmar), Cuba, Iran, Iraq, Libya, North Korea, Liberia, Sudan, Syria, and Zimbabwe. The scope of these economic and trade embargoes varies from country to country. OFAC has adopted regulations that detail the scope of the embargo against each country. New sanctions were recently imposed against Syria, and restrictions on trade with Iraq and Libya have been reduced. OFAC also maintains lists of Specially Designated Terrorists and Specially Designated Nationals and Blocked Persons, with whom U.S. persons are prohibited from engaging in any transactions due to U.S. foreign policy and national security concerns. Transfers of items and information to individuals or entities on these lists are prohibited without the prior approval of OFAC.

C. Deemed Exports

In addition to regulating the export of actual goods or commodities, U.S. export controls cover the export or release of “technical data” or technology (which includes information, whether printed, inscribed on media, or communicated orally). The release of such information is called a “deemed export.” Under the deemed export rule, the transfer or release of technical data or information subject to U.S. export controls to a “foreign national,” whether it occurs in the United States or abroad, is “deemed” an export from the United States to the home country of the foreign national. At universities, this issue arises most frequently in connection with the participation of international researchers or collaborators in projects involving controlled technology. Much of the controlled technology that our international students and scholars have access to on campus at Morgan will not require licensing because of the exceptions contained in the regulation.

The ITAR covers such things as:

- guns and armaments,
- ammunition,
- launch vehicles and missiles,
- explosives and other incendiary agents,
- vessels of war, tanks and military vehicles,
- aircraft,
- military training equipment,
- protective personnel equipment,
- fire control equipment,
- auxiliary military equipment (including cameras and cryptographic devices, software, and components),
- toxicological agents,
- spacecraft systems,
- nuclear weapons, and
- classified articles as well as technical data and services that relate to the enumerated categories.

Each of the following activities requires assessment if export controls are applicable:

SHIPPING MATERIALS OVERSEAS

- Any item that is sent from the United States to a foreign destination is an export. “Items” include commodities, software, technology, and information.
- The export of controlled items, information or software may require approval from the U.S. government in the form of an export license. An export license permits controlled tangible items or software to be sent outside the U.S. or controlled information or software to be shared with foreign persons in the U.S. or abroad.
- Before carrying, shipping, or otherwise sending materials outside of the United States, you should consult the Director of Research Compliance to determine whether an export license is required.

TRAVELING TO, OR COLLABORATING WITH COLLEAGUES, OVERSEAS

- Before traveling to countries that may be the subject of sanctions, collaborating with a foreign national outside of Morgan State University or any person or entity outside of the United States, or presenting your research at an international conference, check the following sanctions lists:
 - [Dept. of Treasury Sanctioned Countries](#)
 - Dept. of State Country Policies and Embargoes List
 - Dept. of Commerce Lists to Check
- If you expect that your research may involve or be shared with any individual or entity on any of those lists, you must consult with the Director of Research Compliance in D-RED to determine whether a license is required for your planned activities.

TAKING COMPUTERS OR OTHER ELECTRONIC DEVICES ABROAD

Before traveling abroad with a laptop or GPS equipment, you should reference the <https://www.fcc.gov/consumers/guides/cybersecurity-tips-international-travelers> and <https://www.dni.gov/index.php/ncsc-how-we-work/ncsc-know-the-risk-raise-your-shield/ncsc-travel-tips>, as well as the <https://travel.state.gov/content/travel/en/international-travel/International-Travel-Country-Information-Pages.html>.

V. FUNDAMENTAL RESEARCH EXEMPTION

If the on-campus teaching of “basic and applied research” is free from restrictions on publication and involves information that is not subject to any access or dissemination controls, it generally qualifies for the “fundamental research” exemption. The information is deemed to be in the public domain, and no license is necessary for access to this information by Foreign Nationals.

Similarly, there is an exception for educational information that is released by instruction in catalog courses and associated teaching laboratories of U.S. academic institutions. Thus, Morgan does not need to secure a license from the government to share information with the international community on campus if the information is provided through instruction in the classroom or in our laboratories on campus in the United States. Some distance learning courses may also fall within this exception. Although the fundamental research exemption (coupled with the educational information exemption) may be broad, it generally does not authorize the transfer of physical items outside of the U.S. In addition, the fundamental research exemption does not generally apply to work conducted abroad by Morgan researchers, even if such research and informational exchanges are being conducted at an institution that is affiliated with Morgan. To be eligible for the fundamental research exemption, the research must take place at an accredited institution in the United States.

VI. CONTACT INFORMATION

Anyone planning to export materials abroad, to engage in international collaborations that will involve the transfer of materials or equipment, or who has any questions about the application of export controls to activities in which they are involved should contact the Director of Research Compliance or Vice President for Research and Economic Development.

****This policy amends and supersedes any previous version of an Export Control policy, including any reference to Export Control in “The Principal Investigator’s Guide for Grants, Contracts & Cooperative Agreements” maintained by the University’s Division of Research and Economic Development.**