Should I be concerned if I see the terms “ITAR”, “EAR”, or export control?

No, but this is certainly a prompt to look for any “red flags” that may indicate a second look for export control measures. Some common “red flags” could include references to export control regulations (beyond a mere statement to comply with the law); restrictions on the use of proprietary or confidential information; allowing the sponsor to claim the results or data generated in the agreement as propriety or trade secret; involving the acquisition of export-controlled items or technical data (if known); including foreign sponsors or collaborators; and/or including military application of project results.

How is research with restrictions on personnel and/or publication different from research without such restrictions?

Export control laws do not apply to “fundamental research” projects which are ordinarily published and disseminated broadly without restrictions (such as sponsor-imposed pre-publications review requirements or nationality-based participation restrictions). However, export control restrictions do apply if there are restrictions on publication and/or personnel and may require implementation of various measures to adhere to their requirements.

What are some clauses that may invalidate the fundamental research exclusion?

Currently there are twelve (12) federal clauses that could be problematic: AFMC 5352.227-9000, ARL 52.004-4400, DEAR 252.204-71, DFARS 252.204-7000, DFARS 252.204-7008, DFARS 252.204-7009, DFARS 252.204-7012, DFARS 252.204-7048, FAR 52.204.2, FAR 52.204-21, FAR 52.227-14, and FAR 52.227-17. Most of these clauses have approaches to mitigate the impacts. If you see any of these clauses in the RFP or contract, contact your export control officer.

What is new?

The “Sponsored Research Export Control Checklist” form is filled out by the Principal Investigator at the Post-Award stage and submitted along with the proposal package. OSP reviews for affirmative answers that might be an indication of a potential export control issue. The Research Administrator should send the Export Control Officer (exportcontrol@utep.edu) a notification that the Principal Investigator marked “yes” to at least one of the export control questions.

I would like to learn more about export controls. Who should I contact?

If you would like more information about export controls please contact the Export Control Officer, at exportcontrol@utep.edu.