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.

Research With Restrictions on Personnel/Publication vs Research Without 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.

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.

Before submission of a proposal, you'll be asked to complete the Sponsored Research Export Control Checklist. Contact your Research Administrator for more information.

Get in Touch!

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