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## Sponsored Programs

## Export Controls Policy

**Background**

The U.S. federal government has enacted laws regulating the distribution of specific technology, information, and services to foreign persons and countries for national security and foreign policy reasons. These laws apply to U.S. citizens, and are relevant to the campus community, especially concerning travel and research conducted by individuals alone and/or in affiliation with Sponsored Programs at Buffalo State University. The laws apply to exports of “controlled” items, technologies, and deemed exports.

In recent years, penalties have been enhanced to impact not only individuals but institutions; thus, universities have implemented export control programs to educate their employees and facilitate the export control license application process when necessary and appropriate. In addition, many universities have adopted policies to assure that research conducted meets the criteria of “fundamental research,” to increase the chance that faculty research will not require an export controls license.

To facilitate compliance with federal regulations regarding the control of exports, all Buffalo State faculty, staff, students, and volunteers are required to submit the Export Controls Foreign Travel Disclosure Form a minimum of two weeks before international travel or the commencement of any project where they will work with foreign persons (including foreign volunteers), educational institutions, or businesses.

In addition, all employees who are seeking funding for sponsored programs that may include a foreign component (i.e., foreign travel, working with an international business or educational institution, working with a foreign person), must complete the Export Controls Survey and follow all applicable procedures. If the survey results indicate the possibility that an export control license may be required, the employee shall work with the Export Controls Officer and the Export Controls Associate to complete the review and, if needed, apply for a license.

**Applicability**

This policy applies to all Buffalo State faculty, staff, and students who may be planning to travel outside of the continental U.S. or Canada or who may be engaged in a project that includes a foreign component using Research Foundation/Sponsored Programs funds.

# **Training**

Sponsored Programs provides training via the CITI Export Compliance Course to support the campus community with export control laws.

**Recordkeeping**

Sponsored Programs at Buffalo State University is required under the export control laws to maintain all records for a period of five (5) years from the date of the transaction (i.e., research project, shipment, academic travel, hosting a foreign visitor).

**Reporting**

If anyone becomes aware of potential violations, they should be immediately reported to the Export Controls Officer and the Export Controls Associate for further investigation.

**Compliance**

Noncompliance with this policy may result in:

* the university imposing disciplinary and/or legal action on the individual; and/or
* Federal agencies imposing fines, sanctions, and possible jail time on the individual.

**Policy Summary**

Informed and proactive compliance with U.S. export control regulations is an important contribution to U.S. national security. Sponsored Programs at Buffalo State University is [committed to assuring due diligence and compliance](https://www.rfsuny.org/media/rfsuny/documents/export-controls/reaffirmation_memo_11_19_10.pdf) with the U.S. federal government export control laws and regulations.

## Definitions

Deemed Export - The federal definition of a deemed export is an export of technology or source code (except encryption source code) that is "deemed" to take place when it is released to a foreign national within the U.S. A "deemed" export situation can occur by access/use in research or training, visual inspection, or an oral exchange of information.

For example, a deemed export might occur when an investigator requires a foreign national to have access to or use a controlled laser. A determination must be made to identify whether or not an export license is needed prior to that individual accessing or using the laser.

Export - The federal definition of an export is any item that is sent/transported from the U.S. to a foreign destination;

* to anyone outside the U.S., including U.S. citizens
* to foreign entities, individuals, embassies, or affiliates at any location, including the U.S. “items” include, but are not limited to, commodities, software or technology, retail software packages and technical information.

Foreign National/Person - The federal definition of a foreign national is a person who is not:

* granted permanent U.S. residence, as demonstrated by the issuance of a permanent residence card, i.e., a "Green Card"
* granted U.S. citizenship
* granted status as a "protected person" under 8 U.S.C. 1324b(a)(3), e.g., political refugees, political asylum holders, etc.
* This includes all persons in the U.S. as students, business people, scholars, researchers, technical experts, etc.

Re-Export - The federal definition of a re-export is the shipment or transmission of an item subject to regulation from one foreign country (i.e., a country other than the U.S.) to another foreign country. Shipment or transmission may occur in any of the following ways:

* phone
* e-mail
* lab tours
* meetings
* computer data

A re-export also occurs when a “release” of technology or software (source code) is subject to regulation in one foreign country to another foreign country.

## RELATED INFORMATION

**Documents and Forms:**

[Export Control Form](https://sponsoredprograms.buffalostate.edu/export-controls-compliance)

[Export Control Survey](https://sponsoredprograms.buffalostate.edu/export-controls-compliance)

### [Foreign Travel Disclosure Form | For Use by Academic Affairs Faculty and Staff](https://academicaffairs.buffalostate.edu/export-controls)

### Other Documents:

[**SUNY/RF Export Controls Fact Sheet**](http://www.rfsuny.org/media/rfsuny/documents/export-controls/export-controls-guidance.pdf) **CO**

### Related Links:

[**Research Foundation Export Control Guidance CO**](https://www.rfsuny.org/our-work/sponsored-programs-administration/sponsored-programs-and-research-compliance/export-controls-/penalties--sanctions/)

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