University of South Alabama

Office of Research Compliance and Assurance

Export Control Management Policy

Revised May 2013

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University of South Alabama Policy Governing U.S. Export and Sanction Laws
Office of Research Compliance and Assurance

Purpose:

The purpose of this manual is to set forth USA's policies and procedures for complying with U.S. export control laws and regulations. The export of certain items, technologies, software and services is regulated for reasons of national security, foreign policy, and prevention of the spread of weapons of mass destructions and for competitive trade reasons. The scope of these regulations is broad: they cover exports in virtually all fields of science, engineering, and technology and apply to research activities regardless of the source of funding. In academia, these laws may impact researchers if the project involves:

- restrictions on publishing research results (other than normal patent reviews);
- working with company confidential technical information;
- working with confidential information on how to use equipment;
- shipping equipment or materials to a foreign country;
- working with a country subject to a U.S. boycott; or
- working with an individual or organization on the list of supporters of terrorism.

Background:

Export controls impact research administration; sharing of information; publishing of results: management of intellectual property; processing of visas; processing of passports; hiring of foreign nationals; purchasing; shipment and utilization of scientific equipment; working with collaborators and colleagues within and outside of the U.S.; and travel outside the U.S. for scientific and educational purposes.

Since the 1940s export controls set forth in federal regulations has been administered by three main federal agencies to impose access, dissemination, and participation restrictions on the transfer (export) and retransfer (re-export) of "controlled" information, software, technology, and export and re-export of tangible items. Such efforts are made to prevent terrorism, to curtail export of technologies that assist the military potential of adversaries, to comply with trade agreements, and to prevent development of nuclear, chemical, and biological weapons.

An "export" is defined very broadly to include an oral or written disclosure of information, visual inspection, or actual shipment outside the U.S. of technology, software/code or equipment to a foreign person or entity. Transfer of any of the above described items is also applicable to foreign persons or entities within the United States and is defined as a "deemed export".

The US Commerce Department must issue an export license, or provide an exception to or exclusion from license requirements before any controlled tangible item, software, or information on the Commerce Control List (CCL) may be exported or re-exported. Likewise, if the item in question is on the US Munitions List (USML), the US State Department must issue or provide for an exception to or exclusion from licensing requirements. Sending controlled items or information to a sanctioned county or individual as defined by the Office of Foreign Assets Control (OFAC) is generally prohibited in all forms.

Key Definitions:

Controlled Item(s): Includes any information, technical data, oral/written disclosure, or visual inspection of items or descriptions contained within federal regulatory lists governing export controls. These lists are principally the Commerce Control List and United States Munitions List.

Deemed Export: Release of controlled technology to a foreign national in the United States is "deemed" to be an export as if it is released to the foreign national's country of origin regardless of the physical location of the foreign national

Empowered Official: A U.S. citizen who is legally empowered to sign export license applications or other requests for approval on behalf of the University of South Alabama who understands the provisions and requirements of the various export control statues, regulations, and penalties for violating export control laws. The Vice President for Research is the "Empowered Official" for the University.

Export: Defined very broadly to include an oral or written disclosure of information, visual inspection, or actual shipment outside the U.S. of technology, software/ source code or equipment to a foreign person or entity.

Foreign National: Any person who is not a U.S. citizen, lawful permanent resident alien (green card holder), refugee, protected political asylee, or someone granted temporary residency under amnesty. This includes any foreign government, foreign corporation, or entity that is not incorporated or organized to do business in the U.S.

Fundamental Research: Basic or applied research in science and/or engineering performed or conducted at an accredited institution of higher learning in the U.S. where the resulting information is ordinarily published and shared broadly in the scientific community. University research will not be considered fundamental research if:

1) The University or its researchers accept other restrictions on the publication of scientific and technical information resulting from the project or activity, or

2) The research is funded by the U.S. Government and specific access and dissemination controls protecting information resulting from the research are applicable and applied

Publication or Dissemination Restrictions: Within the frame of research and development, publication restrictions include the acceptance of any prohibition or approval authority over publication or any other dissemination of research results, except sponsor or collaborator provisions for review of results resulting in a short review period to remove its proprietary or pre-patentable information.

Release: Technology or software is "released" for export through: (i) visual inspection by Foreign Nationals of U.S.-originating equipment, facilities, technology, or documentation; (ii) oral or written exchanges of information in the United States or abroad; (iii) the application to situations abroad of personal knowledge or technical experience acquired in the United States; or (iv) physical export of a controlled item.

Technology and Technical Data: These terms refer to technical information beyond general and basic marketing materials about a controlled commodity. The terms do not refer to the controlled equipment or commodity itself or to the type of information contained in publicly available user manuals. Rather, the terms "technology" and "technical data" mean specific information necessary for the development, production, or use of a commodity. The information usually takes the form of blueprints, drawings, photographs, plans, diagrams, models, formulae, tables, engineering specifications, and documentation.

Technical Review: Refers to the initial review by the University of South Alabama Office of Research Compliance and Assurance (ORCA) of an export, tangible or informational for determining whether or not the item in question falls under the purview of export controls. Results of review give indication of further action to be taken. All actions must be logged and maintained by ORCA.

Technology Control Plan (TCP): A plan prepared by Principal Investigator and approved by the ORCA for ensuring that there will be no unlawful export of restricted commodities, defense articles, software, data, technology, or technical data in a Sponsored Project without an appropriate government approval.

Applicable U.S. Laws and Regulations

Three principal U.S. regulatory regimes govern the export of items and technology:

State Department: International Traffic in Arms Regulations (ITAR)
22 CFR 120-130, govern the export of defense articles and related technical data (*i.e.*, items or technology that are "inherently military" in nature as well as most space-related items. Such items are found on the US Munitions list.
http://www.pmddtc.state.gov/regulations_laws/itar_official.html

Commerce Department: Export Administration Regulations (EAR)
15 CFR 730-774, govern the export of items or technologies that are commercial or "dual-use" in nature, such items are found on the Commerce Control List (CCL) and anti-boycott regulations
http://www.access.gpo.gov/bis/ear/ear_data.html

Treasury Department: Office of Foreign Assets Control (OFAC)
CFR 500-599, administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals against targeted foreign countries, terrorists, international narcotics traffickers, and those engaged in activities related to the proliferation of weapons of mass destruction.
http://www.ustreas.gov/offices/enforcement/ofac/

Statement of Policy

In its endeavor to conduct research, promote scholarly works, and conduct business transactions, USA will comply with all U.S. export control laws and regulations, including those implemented by the U.S. Department of Commerce through its Export Administration Regulations (EAR) and the U.S. Department of State through its International Traffic in Arms Regulations (ITAR), as well as, embargo regulations imposed by the U.S. Treasury Department through its Office of Foreign Assets Control (OFAC). Export controls restricting a foreign national's participation in university research within the United States generally do not apply to the conduct or results of fundamental research. Such practices, as defined and stipulated, include openly conducted basic and applied research in science and engineering that is not subject to access, dissemination, or participation restrictions of any sort.

However, in the case of release of tangible items, software, or information controlled by federal agencies outside the U.S., travel of persons outside the U.S, or projects that accept restrictions based upon nationality or publication, USA has a responsibility to:

- Conduct a technical review, and, if necessary:
    1. Document an express determination that an exception to export licensing is applicable; or
    2. Obtain an export license; or
    3. Develop a Technology Control Plan with the Principal Investigator; or
    4. Update the I-129 form of any foreign national that is identified as working with export controlled item/information.

Furthermore, restrictions on the use of foreign nationals in program requirements or contractual requirements impose stringent obligations on the University, including restrictions of access to laboratories and research data. Thus, such clauses generally are not consistent with the University's policies on openness in research and nondiscrimination and will not be accepted.

Requests for exceptions to these policies should be submitted to the Office of the Vice President for Research (see SOP, Attachment F). Exceptions are considered in consultation with the appropriate department head and dean. **In any case where a license is required by law, the activity or research will not commence until the license is obtained.**

Openness in Research Policy

The University of South Alabama's Openness in Research Policy expresses our commitment to the principle of freedom of access by all interested persons to the underlying data, to the processes, and to the final results of research. Our constant goal is to conduct fundamental research in basic and applied science and/or engineering, which is widely and openly published and made available to the scientific and academic community. Based upon federal laws and general principle, the university will not participate in discrimination based on nationality, country of origin, ethnicity, gender, race, or religion. It is USA policy to not accept any conditions of award that will require publication, dissemination or participation restrictions unless a waiver of publication rights is granted by the Vice President for Research. The process for submitting petitions for waivers is available on the Export Control website: http://www.southalabama.edu/researchcompliance/exportcontrol.html

Examples of Potentially Export Controlled Activities

Although export control regulations cover a wide range of activities, the following examples are most pertinent to academic research:

1) Research carried out at institutions of higher education in the United States in areas involving controlled technologies; however, where there is no publication, foreign national, or access and dissemination restrictions shall in most instances satisfy the requirements for fundamental research, so additional steps regarding obtaining a license are generally not required.

2) Shipment of controlled items or information outside the United States may require a license under the appropriate regulations (i.e., EAR, ITAR, or OFAC). USA via Office of Research Compliance and Assurance (ORCA) will apply for such licenses on behalf of the PI / University; appropriate time must be allowed to obtain a license prior to shipment.

3) Technical assistance agreements where U.S. citizens or permanent residents are providing training of foreign nationals where a controlled technology is involved requires a license and USA via the ORCA will apply for such licenses.

4) Research carrying restrictions on publications/foreign nationals or where export controlled data is provided to and used by researchers in a laboratory that would require a license for foreign nationals to participate (i.e., "deemed exports"). Such situations can be administered through a technology control plan (TCP) developed between the ORCA and the PI, or a license

can be applied for by USA via the ORCA. Every effort will be made by the Sponsored Projects Administration (SPA) to remove clauses with such restrictive language.

Acceptance of Third-Party Controlled Equipment or Technologies

In some instances, the conduct of fundamental research (where the research products and results may be openly conducted and shared freely with foreign nationals in the United States without the requirement for a deemed export license) may require third-party equipment or technology that may be subject to export control restrictions. While equipment may be controlled for only export outside the United States, the nature of the use of certain technology and software may create the requirement for a deemed export license. The PI is responsible for recognizing whether the technology/equipment involved in the research program may be subject to export controls. The ORCA will provide assistance to researchers in trying to reach such determinations.

In such instances, the PI must assess whether such restricted technology or software is substantially remote from those portions of the research that will ultimately be critical to publication of the research results. For example, access to controlled proprietary software necessary only to increase the speed of processing research data may be needed by only one member of a research team (i.e., the systems programmer.) provided there are no ultimate restrictions on the ability to publish the intellectually significant elements of the research results, it may be possible to reconcile such limitations with USA's policy on Openness in Research.

Risk Assessment

Continuous risk assessment in the area of export controls is the responsibility of all coordinating areas. Each department has controls in place in the form of checklists and/or questionnaires, standard operating procedures, and/or training associated with their area of processing that is monitoring multiple aspects of associative risks. These controls include, but are not limited to, grant hiring and publication restrictions, material transfers outside of the United States and to foreign nationals with in the US, student admissions, foreign purchases, legal stipulations, travel outside the US, and hiring of part time or full time foreign nationals. It is the responsibility of ORCA to assist the departments in any complications that might arise during the applications of duties and the "tripping" of controls in place to flag issues related to export controls.

Seeking a License

An export license is official government permission granted to a person or business that allows them to release an item from within the United States to a destination outside of the country. In special cases involving certain recipients from a foreign destination, the exchange of an item is also considered an export transaction even if the recipient is located within the United States at

the time of the exchange.

There are five issues that affect whether an export license is required:

(1) Which government department has jurisdiction over the item sent, the Department of Commerce's Bureau of Industry and Security (BIS), the Department of State's Directorate of Defense Trade Controls (DDTC), or neither;
(2) What item will be exported;
(3) Where the item will be exported to;
(4) Who will receive the item; and
(5) What the item will be used for after receipt

The Office of Research Compliance and Assurance arranges for appropriate support to address export control and license issues, in consultation with the Empowered Official who is the authorized official to sign license applications on behalf of USA to State, Commerce, and Treasury Departments. Licenses normally take from 2-6 months from submissions of application to issuance.

Cloud Computing

USA uses a Google server for electronic correspondences (e-mail). Because Google's servers can be located anywhere and can be operated by anyone hired by Google, any information transmitted electronically or stored on a Cloud server (Drive, in the case of Google) is considered a *deemed export*. The ownness of the information's security is in the hands of the PI according to BIS regulation. Therefore, ORCA recommends PIs not communicating any potential export controlled, restricted, or sensitive information, data, etc. via e-mail or storing it on the Google Drive (or any Cloud-based system) until further notice is received that USA has procured a secure solution for such activities.

No "Side Deals"

The mission of a research institution and the very essence of science require constant communication, much of it informal. That said, it is easy for these communications to transgress into informal agreements made between researchers and sponsors with respect to decisions at the discretion of the researcher (i.e., not to submit research articles for publication, until they have been approved by the sponsor). **Such an informal agreement, however, can invalidate the fundamental research exclusion, thereby potentially exposing the researcher, as well as the institution, to the onerous penalties that may follow from a violation of export control laws.** Every researcher needs to clearly understand that compliance with the export control laws is not discretionary and to ignore them as not being applicable to one's own behavior is to invite serious consequences, which may include both civil and criminal penalties and/or large fines assessed to both the University and the individual researchers, as well as the possibility of suspension of certain research programs.

Restricted Party Screening

Various government agencies maintain lists of prohibited and sensitive end-users. Licenses generally are required to ship any items to these end-users or to carry out a transaction in which a prohibited or sensitive end-user is involved in any way. In order to ensure that USA is not doing business with people or companies who have been debarred, denied export privileges, or are otherwise on one of the numerous government "prohibited lists," the **University must screen to ensure the export is not itself prohibited or being sent to a prohibited end user.** The University has purchased software called "Visual Compliance" that will conduct this assessment.

Policy Implementation

The ORCA has developed the following processes and standard operating procedures to help Administrators, PIs, and other persons engaged in research at the University decide whether the EAR, ITAR and/or OFAC affect a particular research project and identify appropriate resulting action(s).

1. *University Administration*
   The Vice President for Research is the university official with the final responsibility for compliance with export and sanction related regulations. The Vice President for Research assists the ORCA in maintaining continuing relationships with federal agencies.

2. *Vice Presidents, Deans, Department Heads, and Directors*
   Establish effective processes and controls to ensure compliance with this policy. Departments must keep soft or hard copies of all export documentation, including financial reports, shipping documentation, and appropriate ORCA certifications in their files for a period of five years from the date of export, re-export, or deemed export.

3. *Office of Research Compliance and Assurance*
   ORCA develops and implements policies and procedures. ORCA will assist administrative units and researchers in complying with export control regulations as well as provide educational opportunities for the University community. In an effort to become a tool for the research community, ORCA will conduct internal reviews, obtain export control licenses (including updating the I-129 forms for foreign nationals that will be working with projects not covered by the FRE), screen using Visual Compliance as needed (MTA's, guests, etc.), and maintain resources and guidance documents posted on the export controls website. ORCA will also maintain a technical review database listing out any export control related actions.

4. *Principal Investigator ("PI")*

The PI is the individual who bears primary responsibility for all essential aspects of the work being carried out, including technical aspects and completion of programmatic work, compliance with government, sponsor, and university policies and regulations, fiscal stewardship of sponsored funds, and all administrative requirements of the project. He/she must understand and comply with any export restrictions and must also ensure that all personnel working on his/her projects are also informed. The PI has primary responsibility for export compliance to include the following:

- prior to commencing any research, reviewing and cooperating with the Office of Vice President for Research and the ORCA to determine whether any technical information or technology involved in his or her research is subject to the export control law or regulations and, if so, whether any exclusion is available under the export control regulations;
- Re-evaluating that determination before changing the scope of or adding new staff to the project to determine if such changes alter the initial determination;
- Making export determinations far enough in advance to obtain an export license from the appropriate agency, if required and available; and
- Ensuring that foreign nationals are excluded from access to restricted data or technology until the availability of an exemption or exception has been determined or until an export license has been obtained.

The ORCA will assist PIs in assessing the application of such regulations, but primary compliance responsibility rests with the Principal Investigator of the research.

5. *Sponsored Projects Administration (See SOP, Attachment A,F)*
   The Office of Sponsored Projects Administration (SPA) and the Office of Health Services Grants Administration identify potential restricted areas in proposals and solicitations and assist with modifying them to prevent later issues. ORCA will assist as necessary. Post award, the SPA will identify troublesome clauses in awards and contracts and try to modify terms/conditions and take all other reasonable steps to help assure compliance with export control regulations. ORCA will assist as necessary. The PI will be kept informed about the status of the negotiations. Monetary transactions will not occur with any OFAC sanctioned country via the Office of Grants and Contracts Accounting.

6. *International Student Admissions (See SOP, Attachment B)*
   The Office of International Student Admissions will screen applicants and identify those seeking admission from sanctioned or embargoed countries, verify enrollment, and track those individuals in Banner. In the event an international student should desire on-campus employment, Payroll shall contact Director, the International Admissions if a student PA form is submitted (i.e., campus job). The ORCA is available for assistance or clarification if needed as to the guidelines for hiring international student involved in research.

7. *International Travel (See SOP, Attachment C)*
   The Office of International Education handles issues regarding restrictions on international travel activities and conducts restricted party screening search via Visual Compliance (i.e., list of individuals with whom the University is not to communicate while on travel status to a foreign destination). This screening process will ensure that the University does not employ or provide services to restricted foreign nationals or embargoed countries.

8. *Purchasing (See SOP, Attachment D)*
   Purchasing will consult ORCA regarding the procurement of items/equipment from foreign vendors including foreign-owned companies located in the U.S. Visual Compliance will be used to conduct restricted party searches and will email search results to purchasing.

9. *Intellectual Property Management (See SOP, Attachment E)*
   This office monitors/administers intellectual property aspects of incoming/outgoing material transfer and reviews incoming Material Transfer Agreements (MTA) pre-questionnaires (i.e., are materials subject to federal export control regulations, ITAR or EAR). Compliance review also extends to monitoring the outgoing MTA questionnaire (i.e., will the materials be going outside of the US and therefore possibly subject to federal export control regulations).

   The purpose of export controls monitoring is to stop the transfer of equipment, materials, and knowledge that have potential weapons uses. This is especially important in situations where the use of technology in a certain field has no weapons implication but in another field may have potential for weapons production and development. For example, a fermenter that could produce anthrax might also produce medicines or organisms for biological control or remediation. Because of these overlapping uses, export controls thereby prevents transfer of technologies that can be used in biodiversity conservation, sustainable use, and equitable benefit sharing. Importantly, export-controlled items are used in environmentally controversial applications (e.g. genetic engineering) but also in ways that are more generally regarded as safe and beneficial. Any questions should be directed to the ORCA to make proper determinations regarding export licensing/packaging, if applicable.

10. *Grants and Contracts Accounting (See SOP, Attachment G)*
    The Office of Research Compliance and Assurance will assist the Office of Grants and Contracts Accounting with determining sanction levels whenever necessary. No financial activities will proceed until a technical review is conducted to ensure compliance with federal export control laws.

11. *Legal*

When requested, ORCA will seek council from USA's legal team to provide legal guidance and interpretation of export and sanction regulations and laws or consultation regarding potential export control violations.

Violations of Laws, Regulations, and Policies

Possible violations of governmental laws/regulations will be investigated by the university Empowered Official or designee. Action will be taken according to the nature, severity, and scope of the offense consistent with University policy. The University has the authority to suspend or terminate a research, teaching, testing, or other export activity if it is determined that the activity is not in compliance or will lead to noncompliance with existing export or sanction laws or policy. USA reserves the right to voluntarily contact authorities in the event of misconduct. Violations of U.S. export control laws and regulations can result in substantial criminal and civil penalties for both the individual involved in the violation (i.e., fines of up to $250,000 per violation or imprisonment for 20 years) and substantial fines and penalties for USA. Violations also can result in the loss of export privileges for USA or for individuals involved in the violation.

Record Keeping Requirements

Departments or programs must keep hard copies of all export documentation, including financial records, shipping documentation, and appropriate certifications as defined by ORCA in their research files for a period of five years from the date of export, re-export, or controlled deemed export. Copies of Technical Reviews and Technology Control Plans will remain on file with ORCA and the PI for a period of five years. When a research or educational activity involves an export, USA must document its analysis of export control issues, including the availability of any exclusion or exemption.

Training Requirements

General: The ORCA shall be responsible for designing and implementing the export control training program for all faculty, staff, and students.

Export Compliance Awareness: USA employees will receive notice of these policies and procedures via announcement on the ORCA website. Additionally, the ORCA Assistant Director will provide briefings to faculty and staff.

Training for Employees on Export-Controlled Projects: Before beginning work on an ITAR-controlled project or EAR-controlled project requiring export licenses, faculty, staff and students

shall receive export control training with an emphasis on the particular export control issues associated with the project.

Training for Various Research Administrators: The ORCA Assistant Director, with outside assistance as appropriate, shall design and implement a detailed and comprehensive training program for various administrative offices appropriate for their particular job responsibilities.

Training for Export-Controlled Projects: Faculty, students, and employees working on projects for which export control issues have been identified by a technical review must undergo training on the terms, conditions, and prohibitions on information transfer under the review prior to transferring information. The ORCA Assistant Director, with assistance from Sponsored Projects Administration, shall provide the training, which should be incorporated with the Technology Control Plan training.

Technology Control Plan Training: All export-controlled projects must have a Technology Control Plan in place that describes the specific procedures and physical controls that will be implemented on that project to ensure there are no inadvertent transfers. The Principal Investigator is responsible for ensuring that all students, researchers and other employees have been trained on the plan and understand the restrictions. A TCP template is available on the ORCA website.

Audits

General: USA's compliance with U.S. export control laws and regulations and with this Policy shall be subject to periodic audits. USA faculty, staff, and students are required to cooperate fully with these audits.

Internal Compliance Audits: The ORCA Assistant Director shall design and perform internal audits of USA's compliance with these procedures and U.S. export control laws no less than annually. The results of this audit shall be reported to the Vice President for Research and the ORCA Director.

External Compliance Audits: At the discretion of the Empowered Official, USA's compliance with this policy and US export control laws may be audited by an outside law, consulting, or other firm. The results of this audit shall be reported to the Empowered Official and the Office of Research Compliance and Assurance.

History/Revision Dates:

Origination Date: July 2009
Last Amended Date: May 2013

Policy Approval:

Lynne Chronister, Vice President for Research
Jean Tucker, Senior University Attorney
Dusty Layton, Director, Research Compliance and Assurance
Amy Delcambre, Assistant Director, Research Compliance and Assurance

Appendices: Standard Operating Procedures
Approved in collaboration with administrative offices

Adapted material from University of Arizona, Virginia Tech, Stanford University, and Massachusetts Institute of Technology

Appendices

Standard Operating Procedures:

Attachment A:	Management of Export-Controlled Sponsored Projects
Attachment B:	Management of Export Controls for International Student Admissions
Attachment C:	Management of Export Controls and International Travel
Attachment D:	Management of Export-Controlled Purchases
Attachment E:	Management of Export-Controlled Technology Transfer
Attachment F:	Process for Waiver of Publication Rights
Attachment G:	Management of Export Controlled Projects Tracked by Grants and Contract Accounting

Management of Export-Controlled Sponsored Projects

APPENDIX A

Policy and Procedures

1. Purpose

The purpose of this document is to establish procedures to be followed in connection with Sponsored Projects Administration subject to International Traffic in Arms Regulations (ITAR), Export Administration Regulations (EAR), Office of Foreign Assets Control (OFAC) Regulations or other applicable export control regulations.

2. Definitions

Foreign National Person: Any person who is not a U.S. citizen, lawful permanent resident alien (green card holder), refugee, protected political asylee or someone granted temporary residency under amnesty or Special Agricultural Worker provisions. Also any foreign government or any foreign corporation or entity that is not incorporated or organized to do business in the U.S.

Fundamental Research: Means basic or applied research in science and engineering performed or conducted at an accredited institution of higher learning in the U.S. where the resulting information is ordinarily published and shared broadly in the scientific community. Fundamental research is distinguished from research that results in information that is restricted for propriety reasons or national security reasons (EAR) and pursuant to specific U.S. government access and dissemination controls (ITAR)

Technology Control Plan (TCP): A plan, prepared by Principal Investigator and approved by the Unit, and reviewed by Office of Research Compliance and Assurance, for ensuring that there will be no unlawful export of restricted commodities, defense articles, software, data, technology, or technical data in a Sponsored Project without an appropriate government approval.

3. Responsible Research Administration Offices

The Sponsored Projects Administration (SPA), the Office of Health Systems Grants Administration and Development (HSGA), and the Intellectual Property Management (IPM) are responsible for reviewing proposals, contracts, and grant awards for compliance with export control regulations. Any potential compliance issues will be referred to the Office of Research Compliance and Assurance (ORCA) for final determination, resolution and/or management as applicable.

4. Policy

The SPA, HSGA, and IPM shall comply with export control regulations governing applicable Sponsored Projects. The Principal Investigator of an export controlled Sponsored Project shall be responsible for complying with all applicable export control regulations. SPA, HSGA, and IPM should coordinate with the Principal Investigator and the ORCA to determine if a proposed Sponsored Project is subject to export regulations.

5. Policy Administration

The Office of Research Compliance and Assurance and applicable Research Administration offices are responsible for ensuring that Sponsored Project proposals, contracts, and grant awards are identified and in compliance with applicable export control laws.

The Vice President for Research and the ORCA Director are responsible for this policy. The ORCA Director is responsible for issuing requests for export licenses, commodity jurisdiction requests, commodity classifications, and other documents required by applicable export control regulations that relate to Sponsored Projects.

6. Principal Investigator Procedures

The Principal Investigator (PI) must complete the Export Control section on the University Transmittal Form and is responsible for complying with applicable export control regulations and for preparing and implementing a project specific TCP for an identified export-controlled Sponsored Project. When a potential export control issue is identified by a Research Administration office, the Principal Investigator is referred to ORCA for a final determination of the export control regulation applicable to the project. The Office of Research Compliance and Assurance will assist the Department, College, or Unit and the Principal Investigator in determining the appropriate export control management and, if the Sponsored Project is export control restricted in determining security measures needed to prevent unlawful export of export controlled software, technology, or technical data to foreign nationals or foreign persons without an appropriate license or other government approval. The Principal Investigator and Unit shall comply with the security measures in the TCP and annually certify to ORCA that they are complying with the TCP for each export controlled Sponsored Project for which they are responsible.

Principal Investigators must be aware that any "side" arrangement, contracts, terms, or clauses negotiated by the PI and sponsor without the express knowledge and/or approval of the Vice President for Research may jeopardize the University's fundamental research exclusion. The University of South Alabama will not honor, recognize, or be bound by any such arrangement, contracts, terms, or clauses.

7. Pre-Award Proposal Processing Procedures

- Review Requests for Proposals / solicitations to identify any export control, foreign person/foreign national, or publication restrictions and notify ORCA of the restriction(s).
- Review pending proposal draft narrative / budget to identify proposals involving a foreign country or foreign travel and notify ORCA of the pending proposal.
- Place any export control **identified** Sponsored Project award in a red folder.

8. Post-Award Management Procedures

- Identify any export control, foreign person/foreign national, or publication restrictions in the award documents and notify ORCA of the restriction(s).
- Identify award documents involving a foreign entity and notify ORCA of the restriction(s).

- Enter into SPA database any publications restrictions, foreign national restrictions, export control restrictions (i.e., EAR, ITAR, OFAC)

- If applicable, the award acceptance sheet should indicate export control restricted research.

- Whenever possible, negotiate to remove publication/access and contract specific national security restrictions to allow the Sponsored Project to be conducted as Fundamental Research, not subject to export control regulations.

- Consult with PI and/or ORCA when changes are proposed to a Sponsored Project (i.e., personnel, or equipment added; venue or scope of work changed) that may involve export control regulations.

- Obtain and include the Principal Investigator and Unit's signed TCP in an export control restricted award unless this requirement is waived in writing by the Director of ORCA.

9. Office of Research Compliance and Assurance Procedures

- Make the final determination if a Sponsored Project will require a TCP under export control regulations.

- Advise the Unit, Principal Investigator, and SPA of any required TCP for any export control restricted Sponsored Project to facilitate the understanding export control regulation requirements and penalties for noncompliance.

- Assist the Principal Investigator in preparing and reviewing any TCP prepared for an export controlled Sponsored Project.

- Prepare, in coordination with the Unit, Principal Investigator, and, if applicable, Sponsor, self-determined export control commodity jurisdiction and classifications for Sponsored Projects. In the event that a self-determined commodity jurisdiction and classification cannot be made for a potentially export control restricted Sponsored Project, prepare, in coordination with the Unit and/or Principal Investigator, and submit a commodity jurisdiction / commodity classification request to the Department of State or Department of Commerce, as applicable.

- Conduct training for all personnel in an export-controlled Sponsored Project who will have access to export-controlled items, software, or technology unless such training is waived in writing by the Director of ORCA.

- Maintain a record of all documentation required by export control regulations relating to Sponsored Projects.

10. References

International Traffic in Arms Regulations (ITAR)	22 CFR §§120-130
Export Administration Regulations (EAR)	15 CFR §§734-774
Office of Foreign Assets Control (OFAC)	31 CFR §§500-599

http://www.treas.gov/offices/enforcement/ofac/sanctions guidance

Management of Export Controls for International Student Admissions

APPENDIX B

Policy and Procedures

Purpose

The purpose of this document is to establish procedures to be followed in connection with International Student Admissions subject to International Traffic in Arms Regulations (ITAR), Export Administration Regulations (EAR), Office of Foreign Assets Control (OFAC) Regulations or other applicable export control regulations.

Definitions

Foreign National Person: Any person who is not a U.S. citizen, lawful permanent resident alien (green card holder), refugee, protected political asylee, or someone granted temporary residency under amnesty or Special Agricultural Worker provisions; this includes any foreign government or any foreign corporation or entity that is not incorporated or organized to do business in the U.S.

Fundamental Research: Means basic or applied research in science and engineering performed or conducted at an accredited institution of higher learning in the U.S. where the resulting information is ordinarily published and shared broadly in the scientific community. Fundamental research is distinguished from research that results in information that is restricted for propriety reasons or national security reasons (EAR) and is pursuant to specific U.S. government access and dissemination controls (ITAR).

Office of Foreign Assets Control (OFAC): The US Department of Treasury oversees US economic sanctions and embargos through its Office of Foreign Assets Control (OFAC). OFAC enforces trade, anti-terrorism, narcotics, human rights, and other national security and foreign policy based sanctions prohibiting the provision of anything of value to sanctioned countries, organizations, or individuals.

Responsible Research Administration Offices

The Department will screen applicants and identify those from sanctioned or embargoed countries/verify enrollment and can be tracked in Banner. In the event an international student should desire on campus employment payroll shall contact Director, International Admissions if a student PA form is submitted (ie, campus job). The ORCA is available for assistance or clarification if needed as to the guidelines for hiring international students involved in research.

Procedures

Admissions for International Students

International students are admitted to a full-time study in a specific program. Applicants who are not U.S. citizens must complete and submit an International Application for Admission (which includes submission of admission number and date from I-94 card if the student is already in the United States), provide academic records, English proficiency scores, Statement of Purpose, three original letters of recommendation, financial affidavit, certified bank statement/letter, photocopy of passport, and a Transfer Eligibility form (if applicable) before a final admission decision can be made. (Statement of Purpose and three original letters are only required of graduate applicants).

1. Application for Admission

In addition to personal data and emergency notification, the application requests the immigration status of international applicants. The applicant is required to provide the type of visa they hope to obtain along with the admission number and date from their I-94 card. If a student is accepted, their information is screened through the Student Exchange Visitor Information System (SEVIS). Any change in the information originally submitted must be tracked in SEVIS for the duration of the student's tenure at the university.

2. Visas

Under immigration law, international students are divided according to their immigration classification. Each visa type has its own eligibility requirements and restrictions.

a. **F-1 Student.** An F-1 student is a resident of a foreign country who plans to return to their home country and who is coming to the U.S. temporarily and solely for the purpose of attending a school previously determined by the student. An F-1 student is required to demonstrate full financial support in order to obtain the F-1 visa and to be admitted to the U.S. as a student. There are numerous requirements and restrictions regarding enrollment, employment, travel, etc.
b. **J-1 Exchange Visitor.** The J-1 Exchange Visitor classification serves a variety of educational purposes. Under this status, students, scholars, professors, and researchers may come to the U.S. temporarily for the purpose of educational exchanges under the sponsorship of an approved organization or institution. Students often enter the U.S. in J-1 Exchange Visitor status when they are participants in sponsored activities.
c. **Other Visa Types.** In addition to F-1 and J-1, there are other visa types represented among the international student population. F-2 and J-2 visas are available to spouses or unmarried children of F-1 or J-1 holders. B-1 and B-2 visas can be obtained by individuals on business or tourism respectively.

3. Affidavit of Financial Support and Financial Admission Requirements

The Affidavit of Financial Support requires the candidate to provide evidence of the ability to cover all expenses, including those of any accompanying dependents, for each year of study. The amount must be no less than what is defined by the university to cover applicable expenses; the university reserves the right for this figure to change, signed by a sponsor, and accompanied by a

bank letter. Certain transactions with individuals and entities banned by OFAC are prohibited. Visual Compliance can be utilized by the Office of International Student Admissions and/or ORCA to ensure no such payments occur with banned parties.

4. **Full-time Status Requirement**
   International students in F-1 or J-1 status must carry a full course load in each regular semester to comply with the US Citizenship and Immigration Services (USCIS) regulations. International students in F-1 or J-1 status may not hold full-time assistantships or a combination of assistantships that exceed 20 hours of service per work week since this jeopardizes their student status with USCIS (*other than authorized vacation periods such as Christmas and summer*).

5. **Off-campus Employment**
   US Citizenship and Immigration Services regulations do not permit international students on F-1 visas to work off-campus during their first year of study in the U.S. Employment restrictions and eligibility requirements vary for each type of visa; questions should be referred to (and authorization obtained from) Office of International Student Admissions before any off-campus employment is undertaken by an international student.

6. **On Campus Employment**
   In the event that an international student or international postdoctoral student should apply for campus employment in a research setting, ORCA will contact the Office of International Student Admissions and Human Resources for assistance in screening those applicants to ensure that the visa status they hold is legal and up to date.

   **Note: Foreign nationals that are hired by USA are screened by Human Resources to verify legal status to exist and work with in the United States. When necessary, International Student Admissions is contacted for assistance, which can be rendered using screening tools available to the Director.*

Policy Administration

The Office of Research Compliance and Assurance and applicable Research Administration offices are responsible for ensuring that the integrity and speed of research is maintained while making assurance that the University remains within the confines of any and all applicable laws.

10. References

International Traffic in Arms Regulations (ITAR)	22 CFR §§120-130
Export Administration Regulations (EAR)	15 CFR §§734-774
Office of Foreign Assets Control (OFAC)	31 CFR §§500-599

Management of Export Controls and International Travel

APPENDIX C

TRAVEL POLICIES AND PROCEDURES

Background

USA requires prior written approval for all international related travel on USA-approved business – students (graduate or undergraduate) on study abroad (includes but not limited to "traditional" study abroad, research/field experiences and internships/service learning/work abroad for credit or approved by academic units, faculty and staff foreign travel funded by USA (grants, dept. funds, etc.), and faculty and staff foreign travel while on university-approved business/professional leave that is sponsored by any other agencies including self-funded activities. Activities outside the United States that are personal and undertaken under what is deemed "personal, annual or vacation" leave are not covered by this policy. All USA faculty and staff are free to travel outside the US at their discretion on personal leave.

Definitions

For purposes of this policy, foreign travel is defined as any USA-related travel outside of the United States. .

As of 8/02/2010 the policy was amended to remove travel to non-contiguous US destinations (including Hawaii and Alaska) as well as to United States territories and possessions (also known as "United States Insular Areas") they no longer require the ITRF completion - they should be treated solely as domestic travel. Travelers still need to process the appropriate internal paperwork needed for the departmental leave request. What is a territory or insular area?
http://www.doi.gov/oia/Islandpages/political_types.htm

For current amendments and updates to the policy go to:
http://www.southalabama.edu/travel/international.html or
http://www.southalabama.edu/travel/intltravelpolicy08162010.pdf

Applicability

This policy applies to all USA employees (faculty, staff and students) and includes the following types of foreign travel:

- Any employee USA-related foreign travel authorized to be paid from, or reimbursed through, any USA account, regardless of funding source.
- Any employee USA-related foreign travel that is undertaken for conducting USA business but for which the expenses will be paid directly to the traveler by a non-USA agency or organization.

Examples of this include employee foreign travel paid by an external agency which requires institutional approval for participation in the program (professional leave).

- Student foreign travel that is approved, reviewed, recommended or otherwise "sponsored/supported" by USA including but not limited to research, preceptorships, internships, service learning, and study abroad (includes activities which may not include academic credit or for which academic credit is awarded either as part of on campus courses (integrated), through other agencies/universities, etc.). All such activities approved, reviewed or which USA faculty, staff or academic units foster, encourage or otherwise advise students to participate in as part of their USA experience.

Exclusions

Foreign travel not covered by this policy and not requiring prior approval as foreign travel includes the following:

- Annual vacation or personal leave foreign travel - Foreign travel that does not require institutional approval (personal leave). Travel such as that which is undertaken by USA employees for personal professional activities where the foreign travel is not paid for by USA or when the external agency paying for the foreign travel is not USA-related. Such leave may require approval of coverage for teaching assignments, use of annual or vacation leave, etc., however the travel itself would not be reviewed.

Approval limitations/exclusions: All travelers should be aware that when travelling on USA-approved business abroad there is no insurance, support, or other forms of institutional coverage if the person conducts an illegal or sanctioned activity. The US embassy/consulates may also be unable to assist US citizens under such circumstances.

Research Compliance and Assurance –

- Export Control Foreign Travel Advisory**.** To ensure you do not run the risk of exporting sensitive information or technology when traveling abroad, or dealing with sanctioned countries, entities, or individuals, keep the following guidelines in mind:
    1. Presentations and discussions must be limited to topics that are not related to controlled items or technologies unless that information is already published or otherwise already in the public domain.
    2. Verify that your technology or information falls into one or more of the following categories prior to traveling:
        - Research which qualifies for the fundamental research exclusion
        - Published information
        - Publicly available software
        - Educational information
        - Patent applications
    3. Remove export-controlled information, technical data, and software from your laptop prior to leaving the United States.
    4 Laptops and Equipment (i.e. laptop computer, PDA, cell phone, data storage devices, global positioning systems (GPS), thermal imaging cameras, inertial measurement units, encrypted software as well as specialty software, etc.) Depending on your international destination(s), an export license or other government approval may be required for this

equipment or software. There are exceptions for "tools of trade" but these exceptions depend on the equipment and the country of your destination. Encryption software in particular is subject to special regulations and more stringent license requirements. For example, certain commercially available software (currently available or new/future products) may contain such strong encrypted software, subject to export restrictions. ORCA will review all travel documentation to verify electronics and information being taken with the traveler is in compliance with federal export control laws.

5. Fill out the Employee Temporary Export Certification form (Appendix V) to temporarily export your laptop computer, PDA, cell phone, data storage devices and encrypted software. This application will file your certification that you will comply with the terms and conditions specified. This certification is not required if your travel is only to Canada.

- General Requirement of the Fly America Act

  All federally funded grant projects are subject to the following requirements. Please contact the Research Compliance and Assurance office for additional information and assistance.

  Generally, all flights charged to federal projects must be taken on U.S. flag air carriers or on foreign air carriers that code share with a U.S. flag carrier on the flight taken. This includes flights within the U.S. If there is no U.S. carrier to your destination, you must travel on a U.S. carrier as far as possible. By law, additional cost for U.S. carrier flights is not sufficient justification to fly on foreign carriers. Please note that the same rules apply to a foreign visitor's flights.

Countries with US Trade Sanctions: Travel to countries with US Trade Sanctions requires specialized review and consideration. Any person traveling to a country with a trade sanction, should be aware that US federal restrictions apply and that generally there are significant limitations to activities, transport of technology, use of US funds, etc.

Travel to Countries with US DOS Travel Alerts, Warnings and security concerns: ALL USA employees engaging in USA-related foreign travel must check on the current travel security related conditions (including warnings provided by the U. S. State Department for the countries to be visited) and review the travel policy for such countries (appendix I). This review must be provided on the "Request for Approval of Employee USA-related Foreign Travel" form at the time the form is submitted for approval of the department/unit head. This review may be secured by contacting the Office of International Education and completing the "Pre-approval Foreign Travel Review Process".

NOTE: Travel to countries with significant security concerns, alerts, and or warnings by the US DOS, CDC, or other agencies may be restricted, deferred or denied.

Steps for Review and Action on Foreign Travel Requests:

1. Potential travelers should complete the "Foreign Travel Review Request Form located at: http://www.southalabama.edu/financialaffairs/traveloffice/forms.html at least 2 weeks prior to the planned travel. Said review includes:
   a. Verification of US DOS travel alerts, warnings and security information

b. Restricted Party Screening review – including individual, company and blocked foreign nationals by country reports (provided by the Office of International Education per procedure approved by the Office of Research Compliance and Assurance)
c. Trade Sanction country review (as identified by review noted in item b)
d. 24/7 emergency assistance insurance enrollment – including 24/7 worldwide call center services as well as unlimited coverage for medical evacuation, repatriation of remains, security evacuation and related support services.
e. Completion of emergency contact and related foreign travel supporting information as requested.

2. The traveler receives the following from International Education
    a. OIE signed ITRF form – OIE does NOT approve or disapprove of travel only provides advisory information and recommendations regarding travel.
    b. Notifications of US DOS alerts/warning/security information
    c. 24/7 emergency assistance enrollment information
    d. Instructions for completion of review process (approval, etc..) by appropriate administrative oversight area.
    e. All information is sent solely by email to the traveler with copy to ORCA
    f. Information sent to traveler is archived in OIE Banner tender record for individual travelers.

3. Following receipt of documentation listed in item 1 above the potential traveler completes "USA Request for Professional Leave or Travel" form(s) at least 30 days PRIOR to traveling and prior to requesting expense payments related to foreign travel. Said review to include:
    a. International security and travel review report
    b. Funding availability/sources
    c. Area specific duties and coverage
    d. Unit specific aspects

4. Submit all paperwork (including documentation provided as a result of the review in item 1 above) to the appropriate department head for signature and review.

5. Submit all paperwork to the appropriate college dean for signature and review.

6. Submit completed forms to the Senior Vice President for Academic Affairs or Vice President for Health Sciences for review and action deemed appropriate.

7. The relevant VP offices send copy of completed request form to appropriate USA offices for distribution. A copy will be maintained on file in the Office of the VP.

8. Completed (approved, denied, deferred, etc.) travel copies will be routed to:
    a. traveler
    b. College dean
    c. Department

9. *Prior to travel prepayments*, traveler attaches a copy of fully approved request form any requests for pre-payment of conference registration/fees, airline ticket requests, or any other payment

requests applicable to the approved travel. Note: no airline ticket purchases will be approved prior to the completion of the foreign travel authorization documentation.

10. *Upon completion of travel - reimbursements*, traveler attaches a copy of fully approved request form to travel reimbursement request including copies of any additional documentation required.

Offices responsible for review and implementation of this policy:

- VP Research
- Senior VP Academic Affairs
- VP Health Sciences
- Research Compliance and Assurance
- Risk Management
- International Education
- Financial Affairs

Attachments:

The form(s) attached are inclusive of the above policies; however, the form(s) may be revised from time to time without affecting the policy itself.

THE UNIVERSITY OF SOUTH ALABAMA

Policy Concerning Study, Travel, and Research in Countries

Under U.S. State Department Travel Warnings

As the daily lives of Alabamians are affected more and more by events around the world, in order to better serve the State and its citizens, The University of South Alabama has and is developing a global presence. Its students take advantage of opportunities for international education and research through organized study-abroad programs, more informal educational trips, and independent study and research funded in whole or in part by the University. Its faculty and staff participate in international educational and research opportunities, both to attain additional knowledge themselves, to share their expertise with other countries and to develop initiatives of the university in part or as a whole. USA is committed to becoming a premiere institution of higher education with a global presence.

As the University's contacts with the rest of the world expand, additional risk is inevitable as its activities are affected by war, terrorism, political unrest, disease, and natural catastrophes in other countries. The University endeavors to balance the value of participation in international educational activities against the potential risk to its students and employees of such participation. In balancing these factors, the University relies on information from the U.S. Department of State (and other agencies see note below *), most particularly the Travel Warnings issued periodically by that agency. Consequently, the University has developed this policy governing its educational and other activities in countries for which the Department of State has issued a Travel Warning.

Department of State Travel Warnings fall into several basic categories: (1) alerts or warnings of conditions that heighten the ordinary risk of travel to a particular country and (2) more urgent travel warnings that prohibit, restrict or otherwise urge U.S. citizens to defer travel to and or to depart that country. Additionally other sectors of the US government may place similar warnings and or restrictions in place such as the US Centers for Disease Control or the US Department of the Treasury Office of Foreign Assets Control (country sanctions program).

Therefore the following policies will be in place related to USA international travel for students, faculty and staff:

I. ALERT or "HEIGHTENED RISK" TRAVEL ADVISORIES: STUDENTS

No student shall be required to participate in an educational activity under University auspices in a country for which the Department of State has issued a Travel Alert. A student who wishes to travel, under University auspices, to a country for which the State Department has issued a "heightened risk" travel alert may do so, under the following conditions:

1. The student must review the Travel Alert and all advisory information as well as the U.S. Department of State Consular Information Sheet for the country in question. Both documents may be accessed on the web at http://www.state.gov.
2. The student must consider carefully the risks described in the Travel Alerts/advisory information and, weighing those risks against the value of the educational opportunity to the student, make his or her own determination about whether to continue with the planned research or study activity. In balancing these factors, the student should take into consideration the possibility that the existing Travel Alert or advisory may be changed to a more urgent type of warning, triggering section II of this policy and possibly affecting the student's ability to receive a refund of monies already expended for the research or study activity. The student should also take into consideration the possibility that, if he or she encounters difficulties abroad, the University and even the U.S. Department of State may be unable to assist.

3. The student must sign a specific release, acknowledging the existence of the travel alert/advisory and his/her decision to continue with the planned activity despite that warning, and releasing the University from liability for injuries suffered by the student while participating in the activity. If a student is under age 19, his/her parent or guardian must also sign this release. If a student is age 19 or older, his/her parent or guardian must sign the document merely to indicate that the parent or guardian is aware of the situation and has read the release. For older students, this requirement may be modified at the discretion of the Director of International Education following consultation with USA Risk Management and University Counsel.

II. TRAVEL WARNINGS FORBIDDING, RESTRICTING OR URGING DEFERRAL OF TRAVEL: STUDENTS

US DOS Warnings vary in their recommendations and generally include some form of advisory regarding deferral of travel by US citizens to locations within a country or region and or to the country as a whole. The reason for such a warning may range from natural disaster to political or other. USA reserves the right to review and restrict travel to each location on a case by case basis using additional security information as readily available at the time of any such warning or request to travel to such a location. As of January 2009 USA secured the services of MEDEX SECURE support services for programs involving students and accompanying faculty and staff (only), however these services do not apply to USA faculty traveling on USA business

FOR FACULTY LED GROUP PROGRAMS and or STUDENT INDEPENDENT STUDY ABROAD: In general when the U.S. Department of State issues a travel warning that specifically **forbids, restricts, or otherwise urges U.S. citizens leave a certain country** the following rules apply:

1. University study abroad programs in that country shall be suspended.

2. No student shall be allowed to travel to that country under University auspices.

3. No student shall be given University funding for any activity in that country. If the student has already received such funding prior to the imposition of the travel warning, the funding shall be returned to the University. Where a portion of the funds have already been expended in furtherance of the activity before the travel warning was imposed, the Director of International Education, **after consultation with the relevant department(s),** shall decide the amount to be returned to the University.

4. If the student is already in the country for which the travel warning has been issued, the Director of International Education shall decide, in consultation with others having knowledge of the situation, whether the student shall be required to return to the U.S. Where the student is required to return to the U.S. or where the student desires to return to the U.S. under these circumstances, the University will, at the student's request, endeavor to help the student make arrangements for his/her return.

5. Where the study abroad program has already been initiated in country and the decision has been made to withdraw the program, efforts will be made to provide "pro-rated" academic credit, continued study options, etc. Academic credit arrangements however cannot be guaranteed in advance and are fully dependent on the circumstances and academic programs and will be made in writing with the student at the time of the program modification/discontinuation.

6. Where the student has pre-paid the costs of a University-sponsored study abroad program the student may be eligible for a refund of all or a portion of the payment, but the availability of a refund is not guaranteed and will depend on availability of recoverable funds as well as expenses incurred.

7. If a student elects to remain in country, travel and participate in the activity despite the Travel Warning and the University rules set out above, section 3 above pertaining to use of University funds applies and section 5 pertaining to academic credit applies. In addition, if the student remains in, participates in research or other educational activity in a country where USA has either discontinued or not provided approval (due to the conditions outlined in this document), the student will never receive any academic credit from the University for that research or educational activity.

FOR FACULTY LED GROUP and INDIVIDUAL STUDY ABROAD PROGRAMS: In general when there is a U.S. Department of State issues a travel warning in place that **DOES NOT** necessarily forbid, restrict, or otherwise urge U.S. citizens leave a certain country and where only deferral may be recommended (to areas of a given country or to the country as a whole) USA reserves the right to review and restrict such proposed activities.

The USA Office of International Education in consultation with university counsel, risk management and academic unit will review the security assessments using at least two or more of the following services US DOS Overseas Security Advisory Council (OSAC), MEDEX SECURE WorldWatch Program (or the vendor with who USA has a current contract), and or other agencies as appropriate for the situation. The proposed participants if approved will be required to sign highly specific liability and informed consent releases and be advised in great detail of the security concerns that may be applicable to their proposed experience. Where such a warning is posted following the beginning of such an activity USA will make all efforts to provide each

participant with all the needed security assessment information, require written response to such and if deemed appropriate cancel or severely restrict the program activities. Students participating on a third party provider program will be similarly informed and required to respond in writing regarding any USA concerns, restrictions or cancellation of the specific program/activity. For third party providers USA may not be directly in control of the activities or advising students receive on site or through their host although USA will make every effort to communicate both through the host and directly with the USA participant.

III. EMPLOYEE TRAVEL TO COUNTRIES UNDER TRAVEL WARNING

The University recognizes that, in times of international crisis, its employees may possess valuable expertise that is needed to assist with the resolution of the crisis. Consequently the University has implemented a review process for locations deemed more hazardous for routine approval or falling into one or more of the categories listed above. The following rules and conditions apply to such travel:

a. No employee shall be required as part of their USA business activities to travel to a country for which a Travel Warning has been issued. Additionally, t*ravel on university-approved business to countries with significant security concerns, alerts, and or warnings by the US DOS, CDC, or other agencies may be restricted, deferred or denied.*

b. Where travel is not critical to the situation, programs or activities of USA either at home or in the specific country location such travel shall be postponed or otherwise delayed until the US DOS Warning is lifted. Approval will be denied until such time as the warning and risks are no longer deemed inappropriate for travel.

c. Where travel is critical to the situation or operations of the university said travel plans shall be reviewed by the Director of International Education in consultation with the USA Risk Management Office and University Counsel. At a minimum:

   i. A review of the rationale for the travel will take place. The traveler and supervising academic or administrative unit will need to provide significant evidence of the critical nature of the activity and a rationale why the risk is outweighed by the projected results of the activity.

   ii. Employees who wish to travel to such a country will be required to review the Consular Information Sheet and Travel Warning at http://www.state.gov and other available material about the conditions in the country in question and to consider carefully whether the value of the travel to them outweighs the risks they will face if they choose to travel.

   iii. Employees will be required to sign a specific release and informed consent document related to the security and liability issues involved with travel under such conditions. The Employee shall take precautions with respect to his or her personal safety. **He or she must recognize that the University, and even the U.S. Department of State may be unable to help in the event he or she encounters difficulties abroad**.

   iv. USA will review and provide any/all relevant information related to insurance (health, security/political evacuations, liability, etc.) based on the specific conditions

and situation. (Note: many health and related insurance plans have exclusions and limitations for coverage in areas of political unrest, war, violence, terrorism, etc.)

v. USA reserves the right to require that all travelers to such countries where there is increased hazard acquire additional 24/7 emergency assistance policies for components not covered under the USA group plans and specifically for coverage including political and security evacuations.

IV. AUTHORITY OF THE DIRECTOR, INTERNATIONAL EDUCATION

Where it is not clear from its wording whether a Travel Alert or Warning falls into category 1 or 2 (or sections (I), (II) or (III)) as set out above, the Director of International Education shall have the discretion to decide the issue, after appropriate consultation and review. Specifically the Director of International Education shall also have the authority to not approve international travel on university business (funded/unfunded yet supported professionally or for academic credit) to locations deemed to fall within the policies outlined in this document.

In any situation involving a Travel Alert or Warning, the special conditions that caused the warning to be issued* may warrant additional or different University rules and responses. In such a case, the Director of International Education shall have the authority to establish such rules and responses in consultation with such other people as the Senior Vice President for Academic Affairs, University Counsel, and Risk Management as deemed appropriate under the circumstances.

* As an example but not as a limitation, such a situation could include travel to an area that is suffering a disease outbreak where there is a risk that the employee/student(s) may become exposed and or may run the risk of spread of the disease to the University and or community upon return. The US Centers for Disease Control, World Health Organization and related local agencies may issue independent travel advisory, alert or warnings independently of the US Dept. of State. Other nations may also issue alerts or warnings for nationals of said countries to limit, defer or otherwise suspend travel to areas of the world; such information may also be used as a reference in making specific determinations related to USA policy for travel authorizations.

Ver. 3/25/2008, amended 4/14/08, amended 6/03/2009.

Ref: http://travel.state.gov/travel/cis_pa_tw/cis_pa_tw_1168.html , http://wwwn.cdc.gov/travel/notices.aspx , http://www.who.int/csr/outbreaknetwork/en/index.html , http://www.unc.edu/campus/policies/travelwarning.html

Management of Export-Controlled Purchases

APPENDIX D

Policy and Procedures

1. Purpose

The purpose of this policy is to establish procedures to be followed in connection with Purchasing subject to International Traffic in Arms Regulations (ITAR), Export Administration Regulations (EAR), Office of Foreign Assets Control (OFAC) Regulations or other applicable export control regulations.

2. Definitions

Foreign National Person: Any person who is not a U.S. citizen, lawful permanent resident alien (green card holder), refugee, protected political asylee, or someone granted temporary residency under amnesty or Special Agricultural Worker provisions. Also any foreign government or any foreign corporation or entity that is not incorporated or organized to do business in the U.S.

Fundamental Research: Means basic or applied research in science and engineering performed or conducted at an accredited institution of higher learning in the U.S. where the resulting information is ordinarily published and shared broadly in the scientific community. Fundamental research is distinguished from research that results in information that is restricted for propriety reasons or national security reasons (EAR) and pursuant to specific U.S. government access and dissemination controls (ITAR)

3. Responsible Research Administration Offices

The Purchasing Department will consult Office of Research Compliance (ORCA) regarding the procurement of items/equipment from any foreign government or any foreign corporation or entity that is not incorporated or organized to do business in the U.S.

4. Policy

Visual Compliance will be used to conduct restricted party screening to identify any persons or entities that may be on government lists that prohibit interaction with those parties (even if they reside in the United States). Any results that merit concern will be communicated to Purchasing. In most cases, the fundamental research exemption allows for universities to purchase non-export controlled merchandise from foreign entities that are not on prohibited government lists.

In the event that restricted parties or entities must be utilized that might fall under export controls the individual making the purchase should contact ORCA concerning the absolute need to acquire items subject to controls, and an explanation as to the absolute lack of options for obtaining the items from a

source that is not subject to regulations. At that time, ORCA will attempt to obtain a license from the regulating agency for procurement of desired item(s), or work with purchasing to find alternative vendors that can provide viable alternatives.

5. Policy Administration

The Office of Research Compliance and Assurance and applicable Research Administration offices are responsible for ensuring that suspect purchases are identified and in compliance with applicable export control laws.

The Vice President for Research and the ORCA are responsible for this policy. The ORCA Assistant Director is responsible for issuing requests for export licenses, commodity jurisdiction requests, commodity classifications, and other documents required by applicable export control regulations that may impact procurement of items.

6. References

International Traffic in Arms Regulations (ITAR)	22 CFR §§120-130
Export Administration Regulations (EAR)	15 CFR §§734-774
Office of Foreign Assets Control (OFAC)	31 CFR §§500-599

http://www.treas.gov/offices/enforcement/ofac/sanctions guidance

Management of Export-Controlled Technology Transfer

APPENDIX E

Policy and Procedures

1. Purpose

To establish procedures to be followed in connection with the transfer of technologies, technical data, software and/or biological/chemical agents subject to International Traffic in Arms Regulations (ITAR), Export Administration Regulations (EAR), Office of Foreign Assets Control (OFAC) Regulations or other applicable export control regulations.

2. Definitions

Foreign National Person: Any person who is not a U.S. citizen, lawful permanent resident alien (green card holder), refugee, protected political asylee or someone granted temporary residency under amnesty or Special Agricultural Worker provisions so any foreign government or any foreign corporation or entity that is not incorporated or organized to do business in the U.S.

Fundamental Research: Means basic or applied research in science and engineering performed or conducted at an accredited institution of higher learning in the U.S. where the resulting information is ordinarily published and shared broadly in the scientific community. Fundamental research is distinguished from research that results in information that is restricted for propriety reasons or national security reasons (EAR) and pursuant to specific U.S. government access and dissemination controls (ITAR)

Technology Control Plan (TCP): A plan, prepared by Principal Investigator (PI) and approved by the Unit, and reviewed by Office of Research Compliance and Assurance (ORCA), for ensuring that there will be no unlawful export of restricted commodities, defense articles, software, data, technology, or technical data in a Sponsored Project without an appropriate government approval.

3. Responsible Research Administration Offices

Intellectual Property Management (IPM) manages the risks that may be associated with materials transferring into and out of University through the use of Material Transfer Agreement (MTAs) for research projects that could fall under the purview of export control regulations. Based on the answers contained in a MTA Pre-Questionnaire Form (See IPM website at http://www.southalabama.edu/ott/) submitted by the PI to IPM, any potential compliance issues will be referred by the IPM to the ORCA for final determination, resolution and/or management as applicable.

4. Policy

The IPM shall comply with export control regulations governing material transfer into and out of the University. The IPM should determine if material transferred or received is subject to export regulations. In the event that the material is subject to export controls the ORCA will conduct any additional review

with the PI. In most cases, the fundamental research exemption allows for universities to transfer non-export controlled material to and from foreign entities that are not on prohibited government lists.

5. Policy Administration

The IPM is responsible for diligence in reviewing incoming and outgoing technology transfers for any situations related to, and under the jurisdiction of, applicable export control laws. All affected materials and transfers are identified by the IPM and passed on to the ORCA for further review and determination of legality *before* the transfer can commence.

The Vice President for Research and the ORCA are responsible for this policy. The ORCA Assistant Director is responsible for issuing requests for export licenses, commodity jurisdiction requests, commodity classifications, and other documents required by applicable export control regulations that relate to Sponsored Projects.

6. Principal Investigator Procedures

The PI instigates a material transfer when filling out the pre questionnaire (http://www.southalabama.edu/ott/mta.html) and turning it in to the Director of the IPM. When questions regarding the export of material to foreign nationals, institutions, or re-export are answered in the affirmative, the questionnaire is forwarded to the Assistant Director of the ORCA. A final determination of the export control regulation applicable to the material transfer is then determined. In the event that the transfer is subject to export controls, the ORCA will assist the PI in determining the appropriate export control management. The ORCA will also assist in determining security measures needed to prevent unlawful export of export controlled software, technology, or technical data to foreign nationals or foreign persons without an appropriate license or other government approval.

7. Office of Research Compliance and Assurance Procedures

- The IPM shall identify technology transfers that could possibly be subject to export control laws.
- Prior to the transfer, the IPM will pass the information on to the Assistant Director of the ORCA for review and consideration.
- Any necessary steps including, but not limited to, restricted party screening, determination of material's inclusion in the EAR or ITAR, license determination, no action required, or other related actions, shall be undertaken by the ORCA in a technical review.
- The outcome of that review will be relayed to the IPM and the entity initiating the transfer to resolve compliance issue or prohibit transfer.
- All results of technical reviews are logged in a related database maintained by the Assistant Director of the ORCA.

8. Intellectual Property Management

- IPM will monitor/administer Intellectual Property aspects of incoming/outgoing material transfer and monitor incoming MTA Pre-questionnaire Forms (i.e., are materials subject to federal export control regulations, ITAR or EAR). Responsibilities will also extend to monitoring outgoing

MTA questionnaire (i.e., will the materials be going to outside of the US and therefore possibly subject to federal export control regulations). Any questions will be directed to the ORCA to make proper determinations regarding export licensing/packaging, if applicable

- IPM will review research agreements, Non-disclosure Agreements (NDA), or Material Transfer Agreements (MTA) for any terms or provisions that restrict access to the research or research information, limit the participation of foreign persons in the research, restrict the release of research results, or otherwise render inapplicable the exclusion for fundamental research conducted in the public domain.

9. References

International Traffic in Arms Regulations (ITAR)	22 CFR §§120-130
Export Administration Regulations (EAR)	15 CFR §§734-774
Office of Foreign Assets Control (OFAC)	31 CFR §§500-599

http://www.treas.gov/offices/enforcement/ofac/sanctions guidance

Process for Petitioning for Waiver of Publication Rights

APPENDIX F

The University of South Alabama's policy is not to accept any kind of publication restrictions when accepting research projects, and the University works diligently to negotiate such language out of research contracts. However, in the event that we are unable to negotiate out publication restrictions, and the college or department can make a compelling case for accepting such restrictions, the Vice President for Research will review petitions for waivers to this policy on a case-by-case basis. No agreements or contracts may be signed until a waiver is granted.

The process for submitting such a petition is as follows:

1. Review the project contract language carefully to ensure you understand the restrictions being imposed, why they are being imposed and the implications of accepting those restrictions (e.g., loss of the right to publish research results, loss of fundamental research exclusion under export regulations, etc.). Contact the Sponsored Projects Administration (SPA) if you have any questions. SPA will work diligently in negotiating such clauses out of contracts but sponsors are often not accommodating to the needs of the University to publish research results.

2. Prepare the Petition for Waiver using the attached template. Include a brief explanation of the reasons for the restrictions and why a waiver should be granted. Be sure to obtain all required signatures.

3. Submit the Petition Lynne Chronister, Vice President for Research Compliance at lchronister@southalabama.edu for review. Send a copy to SPA, AD 200.

4. The Vice President will review the request and make a recommendation regarding acceptance or rejection.

5. If the Waiver is granted, the PI will receive a signed copy of the Waiver, which must be submitted to the SPA before the contract or agreement will be signed. SPA will send a copy to the Office of Research Compliance and Assurance.

6. Please allow four weeks the waiver request to be processed.

[Insert Department Letterhead]

Date:

To: Lynne Chronister

Vice President for Research

From:

RE: Petition to Waive the Right to Publish Results of Research

Dear Ms. Chronister,

The Department of _____ wishes to enter into a [insert agreement type] with [Name of company or agency] entitled "_____" under the direction of [name of PI]. The deliverable under the agreement is _____. The agreement proposed by [name of company or agency] includes the following clause:

Section No. [Title of Clause with Restrictions]

"Insert clause here"

The Sponsored Projects Administration (SPA) has attempted to negotiate the clause out of the terms and conditions but the sponsor would not agree to alter or delete the clause.

Since this clause is inconsistent with the generally accepted University wording on publications, we would like to petition to waive the right to publish the results of the research should [name of company or agency] object to the publication.

Title of Contract:

Project Funding Amount:

Principal Investigator:

We acknowledge that we may be required to waive the rights to publish the results of this research. We agree that any work related to the research that cannot be published is not available for the merit or promotion processes. We agree that students and others whose careers could be affected by the publication bar will not be involved in research under this agreement.

Type PI Name	Date	Department Head	Date

Approved:

Dean	Date	Lynne Chronister	Date

APPENDIX G

Policy and Procedures

1. Purpose

The purpose of this document is to establish procedures to be followed in connection with Sponsored Projects subject to International Traffic in Arms Regulations (ITAR), Export Administration Regulations (EAR), Office of Foreign Assets Control (OFAC) Regulations or other applicable export control regulations.

2. Definitions

Fundamental Research: Means basic or applied research in science and engineering performed or conducted at an accredited institution of higher learning in the U.S. where the resulting information is ordinarily published and shared broadly in the scientific community. Fundamental research is distinguished from research that results in information that is restricted for propriety reasons or national security reasons (EAR) and pursuant to specific U.S. government access and dissemination controls (ITAR)

Technology Control Plan (TCP): A plan, prepared by Principal Investigator and approved by the Unit, and reviewed by Office of Research Compliance and Assurance, for ensuring that there will be no unlawful export of restricted commodities, defense articles, software, data, technology, or technical data in a Sponsored Project without an appropriate government approval.

3. Responsible Research Administration Offices

The Office of Grants and Contracts Accounting's primary goal is to support the sponsored research activity of academic departments by serving as the central fiscal administrator for the post award function of sponsored research.

4. Policy

The Office of Grants and Contracts Accounting shall comply with export control regulations governing applicable financial transactions. The Principal Investigator of an export controlled Sponsored Project shall be responsible for complying with all applicable export control regulations.

5. Policy Statement

The Office of Grants and Contracts Accounting will not participate in any exports, imports, trade brokering, financing, or facilitation with those countries under comprehensive sanctions as imposed by the Department of Treasury. Those listed under limited or regime based sanctions must be reviewed by the Office of Research Compliance and Assurance to ensure transactions are conducted outside of the sphere of the foreign government.

6. Office of Research Compliance and Assurance Procedures

The Office of Research Compliance and Assurance will assist the Office of Grants and Contracts Accounting with determination of sanction levels whenever necessary. No financial activities will proceed until a technical review is conducted to ensure compliance with federal export control laws.

7. Countries of Concern

Comprehensive Sanctions	Regime Based	Limited
Cuba	Balkans	Burma
Iran	Belarus	North Korea
Sudan	Libya	Ivory Coast (Cote d'Ivoire)
	Congo (Democratic Republic)	Syria
	Zimbabwe	
	Liberia (former gov't)	
	Iraq	

7. References

International Traffic in Arms Regulations (ITAR)	22 CFR §§120-130
Export Administration Regulations (EAR)	15 CFR §§734-774
Office of Foreign Assets Control (OFAC)	31 CFR §§500-599
http://www.treas.gov/offices/enforcement/ofac/sanctions guidance	