

## Export Control Red Flags

If the terms and conditions of an RFP, solicitation, or an award from a sponsor contain any of the following restrictions or limitations, there is a strong likelihood that the US Export Control Laws will apply. This list is a summary of the indicators to watch for:

1. Does the award specifically state that ITAR, EAR, or OFAC laws will apply?
2. Does the award specifically state that the technology involved is export controlled?
3. Has the sponsor specifically stated that the fundamental research exclusion otherwise available to universities does not apply?
4. Does the technology or data involved have military, security, or intelligence applications? Does it appear on ITAR's U.S. Munitions list?
5. Does the technology, data, or material involved have a dual civilian and military application? Does it appear on the Commerce Department's Control List? Does it have an ECCN?
6. Does the research involve the use of encryption technology or encrypted software?
7. Does the research involve classified, secured, or top secret materials?
8. Will the PI be asked to maintain the confidentiality of sponsor information? Was an NDA or Teaming Agreement executed between the parties?
9. Does the award contain any publication restriction or limitation? This can include the right of the sponsor to review all proposed publications beforehand.
10. Does the award contain DFARS 252.204-7000, Disclosure of Information?
11. Is the award funded by other than 6.1 or 6.2 Congressional appropriations?
12. Does the award prohibit the involvement of foreign nationals? Are project participants limited to US citizens or legal resident aliens only?
13. Does the award involve international travel?
14. Does the award involve the shipment or export of technology, data, or materials outside the United States?
15. Will collaborations with foreign consultants be required?
16. Will the work involve a country that has been embargoed or sanctioned by either the State or Treasury Departments?

The three main export control regulations that implement these laws are:

The **International Traffic in Arms Regulations (ITAR)** 22 CFR § 120-130 is managed by the Department of State and regulates the exchange and security of defense articles, services and related technical data determined to be inherently military in function and application and identified on the U.S. Munitions List.

The **Export Administration Regulations (EAR)** 15 CFR §734-774 is managed by the Department of Commerce and regulates commercial products and technologies that may have "dual use" civilian and military functions and applications.

The **Office of Foreign Assets Control (OFAC)** 31 CFR §500-599 is managed by the Department of Treasury and enforces trade sanctions based on U.S. foreign policy and national security goals. These regulations are not restricted to technologies, but restrict the transfer of assets to certain foreign countries, blocked persons, and organizations and individuals suspected of terrorism, drug trafficking and or money laundering.