

**TECHNOLOGY CONTROL PLAN
UNIVERSITY OF DAYTON
MAY 2015**

I. SCOPE

The procedures contained in this plan apply to all elements of the University of Dayton (UD). Disclosure of classified information to foreign persons in a visitor status or in the course of their employment by the University is considered an export disclosure under the International Traffic in Arms Regulations (ITAR) and requires a Department of State (DoS) license or DoS approval of either a Technical Assistance Agreement or a Manufacturing License Agreement.

II. PURPOSE

To delineate and inform employees and visitors of the University of Dayton the controls necessary to ensure that no transfer of classified defense information or controlled unclassified information (defined as technical information or data or a defense service as defined in ITAR paragraphs 120.9 & 120.10) occurs unless authorized by DoS' Office of Defense Trade Controls (ODTC), and to ensure compliance with NISPOM 2-310 and 10-509.

III. BACKGROUND

The University of Dayton provides research and development support, primarily through the Research Institute, to government agencies (such as Wright-Patterson Air Force Base, Robins Air Force Base and Hill Air Force Base) in leading-edge technology. Contractual tasking includes, but is not limited to, the analysis of systems and subsystems, materials, electronics, information systems, and fuel systems. UD/UDRI may employ or receive foreign persons in the course of its technical and related business activities.

IV. U.S. PERSON/FOREIGN PERSON

The NISPOM defines a U.S. person as any form of business enterprise or entity organized, chartered or incorporated under the laws of the United States or its possessions and trust territories, and any person who is a citizen or national of the United States.

A U.S. National is defined in the NISPOM as a citizen of the U.S., or a person who, though not a citizen of the U.S., owes permanent allegiance to the U.S. Also see 8 USC 1101(a) (22) or 8 USC 1401 (a) paragraphs 1 to 7 for further clarification on those who may qualify as nationals of the United States.

A Foreign National is any person who is not a citizen or national of the United States. A Foreign Person is defined as any foreign interest, and any U.S. person effectively controlled by a foreign interest. A Foreign Interest is any foreign government, agency of a foreign government, or representative of a foreign government; any form of business enterprise or legal entity organized, chartered or incorporated under the laws of any country other than the U.S. or its possessions and trust territories, and any person who is not a citizen or national of the United States.

A. Foreign Persons

1) No foreign person will be given access to classified material or controlled unclassified information on any project or program that involves the disclosure of technical data as defined in ITAR paragraph 120.10 until that individual's license authority has been approved by ODTC.

2) University of Dayton employees who have supervisory responsibilities for foreign persons must receive an export control/licensing briefing that addresses relevant ITAR requirements as they pertain to classified and controlled unclassified information.

B. Foreign Person Indoctrination

Foreign persons employed by, assigned to (extended visit) or visiting the University shall receive a briefing that addresses the following items:

- 1) that prior to the release of classified material or controlled unclassified information to a foreign person an export authorization issued by ODTC needs to be obtained by the University.
- 2) that they adhere to the University's security rules, policies and procedures.
- 3) that outlines the specific information that has been authorized for release to them.
- 4) that addresses the University's policies for the use of facsimile, automated information systems and reproduction machines.
- 5) that any classified information they are authorized to have access and need to forward overseas will be submitted to the Government Security Office, 1700 SPB Room M-5250, 9-2919 for transmission through government-to-government channels.
- 6) that information received at the University for the foreign person and information that the foreign person needs to forward from the University shall be prepared in English.
- 7) that violations of security procedures and policies committed by foreign nationals are subject to University of Dayton sanctions up to and including termination.

V. ACCESS CONTROLS for FOREIGN PERSONS

Foreign persons who do not have the proper authority will be located in areas that prevent access to classified and export controlled information.

Access of foreign persons to electronic export controlled or sensitive information will not be permitted without the proper authority. Such information will be password protected, located on another server, or otherwise protect to prevent un-authorized access.

Escorts will accompany foreign person visitors at all times to prevent un-authorized or inadvertent access to controlled areas.

The supervisor of the foreign person will notify other personnel of a foreign person's presence as necessary.

Technical information under the control of UD employees shall not be shared with another employee, visitor or subcontractor until an export authorization has been obtained by UD in accordance with the International Traffic in Arms Regulations or the Export Administration Regulations.

Questions regarding whether an export authorization is required shall be directed to the employee's supervisor and/or the UDRI Export Administrator.

VI. EXPORT CONTROLLED INFORMATION

While some of the work done on sponsored contracts and grants are fundamental research, there is work related to the U.S. Munitions List and/or contract restrictions that make it subject to the ITAR or EAR. The vast majority of UD's research and development technology does not require an export license. However, the proper export authorization shall be determined prior to sharing any technology with a foreign person.

VII. NON-DISCLOSURE STATEMENT and ACKNOWLEDGEMENT

All foreign persons shall sign a non-disclosure statement (attachment A) that acknowledges that classified and controlled unclassified information will not be further disclosed, exported or transmitted by the individual to any foreign person or foreign country unless ODTC authorizes such a disclosure and the receiving party is appropriately cleared in accordance with its government's personnel security system.

VIII. SUPERVISORY RESPONSIBILITIES

Supervisors of cleared personnel and foreign national employees and foreign national visitors shall ensure that the employees and visitors are informed of and cognizant of the following:

- 1) that technical data or defense services that require an export authorization is not transmitted, shipped, mailed, handcarried (or any other means of transmission) unless an export authorization has already been obtained by the University and the transmission procedures follows U. S. Government regulations.

2) that individuals are cognizant of all regulations concerning the handling and safeguarding of classified information and controlled unclassified information.

3) that the individuals execute a technology control plan (TCP) briefing form acknowledging that they have received a copy of the TCP and were briefed on the contents of the plan (Attach. B).

4) that U.S. citizen employees are knowledgeable of the information that can be disclosed or accessed by foreign nationals.

IX. EMPLOYEE RESPONSIBILITIES

All University of Dayton employees who interface with foreign nationals shall receive a copy of the TCP and a briefing that addresses the following:

1) that documents under their jurisdiction that contain technical data are not released to or accessed by any employee, visitor, or subcontractor who is a foreign national unless an export authorization has been obtained by the University in accordance with the ITAR or the Export Administration Regulations (EAR).

2) if there is any question as to whether or not an export authorization is required, contact the Export Administrator promptly.

3) that technical information or defense services cannot be forwarded or provided to a foreign person regardless of the foreign person's location unless an export authorization has been approved and issued to the University.

X. DEVIATION

Any deviation or waiver from or exception to this procedure requires the approval of all of the undersigned.



John E, Leland, PhD
Interim Vice President of Research and
Executive Director of the Research Institute

5.20.15

Date



Allan S. Crasto
Associate Director, Research Institute

5-20-15

Date



William. R. Barnes
Facility Security Officer/Export and Ethics
Administrator

5-20-2015

Date

NON-DISCLOSURE STATEMENT

I, _____ (insert name of individual) acknowledge and understand that any classified information, technical data or defense services related to defense articles on the U.S. Munitions List, to which I have access to or which is disclosed to me in the course of my (insert which ever term is applicable, employment, assignment or visit) by/at _____ (insert name of company) is subject to export control under the International Traffic in Arms Regulations (title 22, code of Federal Regulations, Parts 120-130). I hereby certify that such data or services will not be further disclosed, exported, or transferred in any manner to any foreign person or any foreign country without prior written approval of the Office of Defense Trade Controls, U.S. Department of State and in accordance with U.S. government security (National Industrial Security Program Operating Manual) and customs regulations.

Print name

Signature

Date

ATTACHMENT B

TECHNOLOGY CONTROL PLAN BRIEFING ACKNOWLEDGEMENT

I, _____ (insert individual's name) acknowledge that I have received a copy of the Technology Control Plan for _____ (insert name of program) and a briefing outlining the contents of this TCP. Accordingly, I understand the procedures as contained in this TCP and agree to comply with all _____ (insert company's name) and U.S. government regulations as those regulations pertain to classified information and export controlled information.

Print Name of Individual

Date

Signature of Individual

Print Name of Company Briefing Official

Date

Signature of Company Briefing Official