

Record Keeping



Record Keeping

- Expected to be part of export control general compliance program in that all export control decisions including process for determinations that exclusions apply should be documented
- Requirement for use of all exemptions
- Requirement under licenses



Documenting Fundamental Research Exclusion

- Rationale for FRE determination
- Stanford Export Controls Decision Tree
www.stanford.edu/dept/DoR/exp_controls/tree/
- Screening questions
 - Funding source
 - Access to proprietary and controlled information
 - Foreign collaboration/travel
 - Solicitation requirements
 - Contractual terms and conditions



Technology Control Plan (TCP)

- For secured facilities with no foreign nationals access, an umbrella TCP may be adequate
- Components of a TCP:
 - Commitment in the form in compliance program
 - Physical security plan – badging, access, visitor logs
 - Information security plan – IT access, technical discussions, clean desk policy, data discard/return
 - Personnel screening – review of lists, background checks
 - Education and awareness
 - Self-assessment – corrective actions
 - Termination provisions



Record Keeping Requirements - EAR

- Five (5) years from the latest of
 - Export from the US
 - Any known re-export
- Transactions subject to recordkeeping (restrictive trade practices/boycotts; exports of commodities, software or technology; exports to Canada or any proliferation-related activities)
- Records to be retained (§762.2)
- Records exempt (§762.3)
- Original records required except as provided in §762.4 (includes requirements for digital archives and provisos for written procedures, authorized individuals, inability for records to be altered and quality of copies)
- Destruction of records allowed after five (5) years except
 - Records of Voluntary Self Disclosures require BIS approval
 - Records previously requested by BIS require BIS approval



Shipper's Export Declaration (SED) or Automated Export System (AES)

- SED and AES are export control documents required for most shipments abroad
- EAR recordkeeping requirements relative to SED/AES records
 - Exports to Group E:1 countries
 - Exports made under a license
 - Exports of commodities and mass market software subject to the EAR for values exceeding \$2500 per annum
 - In-transit shipments through Canada



Shipper's Export Declaration (SED) or Automated Export System (AES)

□ EAR Requirements

- Export under a license requires the correct license number, license expiration date, correct ECCN and item description identical to that found in the license
- Export under an exception requires the exception symbol, correct ECCN and description of the item stated in CCL terms
- Destination Control Statement (§758.6) is required for all exports from UT of items on the CCL except those categorized as EAR 99
- SED must be signed by a person in the US at the time of signing and is the responsible party



Recordkeeping Requirements - ITAR

- ❑ Five (5) years from the expiration of the ITAR license or other approval
- ❑ Terminate Technical Assistance Agreements that are no longer needed
- ❑ Unused, expired, expended, suspended or revoked license must be returned immediately to the Dep. of State
- ❑ Records to be retained
 - Registration records (§122.5)
 - Exemption records (§123.26)



Export Control Files

- ❑ May contain controlled information in the form of schematics, drawings, etc.
- ❑ Should be secured in a locked cabinet that cannot be accessed by any foreign person
- ❑ Should be secured when not in use