



**University of South Alabama
Technology Control Plan**

Principal Investigator:

Department:

Project Title:

Sponsor:

Funding Source:

Date:

Policy Statement

The University of South Alabama will comply with all applicable export controls as established by federal regulations. 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 shipments 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:

1. Conduct a technical review; and if necessary
2. Document an express determination that an exception to export licensing is applicable; or
3. Obtain an export license; or
4. Develop a Technology Control Plan with the Principal Investigator.

Background

Since the 1940s export controls set forth in regulations have 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, curtail export of technologies that assist the military potential of adversaries, comply with trade agreements, and 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 to Foreign Persons or entities within the United States 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)

http://www.access.gpo.gov/bis/ear/ear_data.html may be exported or re-exported. Likewise, if the item in question is on the US Munitions List (USML)

http://www.pmddtc.state.gov/regulations_laws/itar_official.html the US State Department must issue or provide for any exceptions to or exclusion from licensing requirements. Sending controlled items or information are to a sanctioned country as defined by the Office of Foreign

Assets Control (OFAC) (<http://www.ustreas.gov/offices/enforcement/ofac/faq/answer.shtml#9>) is generally prohibited in all forms.

Disclosure of export controlled technology to Foreign Persons may be considered an export under the International Traffic in Arms Regulations (ITAR, 22 CFR 120-130) and/or Export Administration Regulations (EAR, 15 CFR 734) and may be subject to a Department of Commerce or Department of State license or agreement. An export may occur by the passing of information or material that is export controlled even within the U.S if it is to a foreign national. Again, this is referred to as a deemed export.

Purpose

The purpose of this Technology Control Plan (TCP) is to ensure that technical information and/or technical data or the use of controlled equipment which is not specifically exempted as Fundamental Research and/or Educational Information by **EAR** or **ITAR** is not transferred to Foreign Persons (including employees, visitors or students) unless approved by a government license. The Office of Research Compliance and Assurance (ORCA) is responsible for evaluating a proposed project for the purpose of determining the specific security measures needed to prevent the unauthorized export of restricted technical data, technology or information, as required by export control laws and university policy. The Principal Investigator and staff involved in the conduct of the project are responsible for adhering to the TCP, and the ORCA is responsible for overseeing their compliance with the TCP. A [TCP template](#) is available at the end of this document.

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 and export as if it were released to the foreign national’s country of origin.

Empowered Official: A U.S. person 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 statutes, 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/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 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: 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.

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.

Publication or Dissemination Restrictions: Acceptance in research and development of any prohibition or approval authority over publication or any other dissemination of research results, except, sponsor or collaborator may include provisions for review of results, with a short review period to remove some sponsor/collaborator business proprietary or pre-patentable information.

Release: Technology or software is “released” for export through: (i) visual inspection by Foreign Nationals of U.S.-origin 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 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.

**For the purpose of this TCP, technology and technical data is in reference ONLY to the carbon fiber material itself and nothing else in the study. As stated by the PI, there is actually no technology or technical data available since that information is considered proprietary to the seller. The only information that can be found on technology or technical data about carbon fibers to be used in the study is on company websites which are in the public domain. As part of the purchase agreement, the study participants agree to not reverse engineer the carbon fibers.*

Technical Review: Refers to the initial review by the university Office of Research Compliance and Assurance (ORCA) of an export, tangible or information, for determination of if the item in

question falls under the purview of export controls. Results of the review and further action required are 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.

Project Specific Information

{Project Title}

Commodity Jurisdiction and Classification *(to be completed jointly by the PI and Office of Research Compliance)*

This project is subject to export control restrictions under *(fill-in the specific EAR or ITAR ECCN or Category.)* The applicable category/categories are below:

Insert detail of EAR and or ITAR listing

As a result of this determination, the Principal Investigator has adopted this TCP to ensure that controlled defense services, articles, technical data, and dual use items, hereafter referred to as “controlled items,” are adequately protected from disclosure to foreign persons that do not have an approved license, valid license exception from the government, or other government approval.

****Any data/or research results generated from the carbon fibers are NOT included under “controlled items” since data generated is exempted under the Fundamental Research Exemption. There have been no restrictions on publication or who can be hired to work on the project. ****

Insert the purpose of this project is to list objectives here.

Security Overview

“One Lock” is the principle of securing controlled items by using at least one mechanism to prevent disclosure to unauthorized persons. This is the minimum requirement for safeguarding the controlled items. Methods for obtaining at least “one lock” are described in the physical and information security sections below. It is the responsibility of the project personnel to safeguard the controlled items at all times by having “one lock” in place.

In 2013, the University of South Alabama transitioned to using a Google-based server, which offers the option of Cloud computing / data storage. Bureau of Industry Security regulations are such that the PI remains the steward of the data in all circumstances thus alleviating any responsibility from Google. Thus, storing data on a Cloud server is considered in violation of deemed export regulations. The PI has confirmed agreement to not use the Cloud system at any point until such an option is deemed permissible by the BIS and standards for doing so are in place.

Physical Security/Storage

Work Area

The minimum security requirement for a controlled item work area is set forth in the National Industrial Security Program Operating Manual (NISPOM); section 5-305 "Restricted Areas". (<http://nsi.org/Library/Govt/Nispom.html>) The restrictions shall have a clearly defined parameter, which is adequate to protect against oral and visual disclosure of the controlled items. Physical barriers are strongly recommended but are not required as long as oral and visual disclosure can be prevented. Project personnel within the Restricted Area shall be responsible for challenging all persons who may lack appropriate access authority.

Storage

All controlled items will be secured in a locked storage container when not in the personal possession the approved project personnel. All controlled items shall be marked "controlled" on an individual basis.

Insert any additional physical security measures unique to the named project.

Access Controls

All foreign nationals must be pre-authorized by the Office of Research Compliance and Assurance prior to the visit to the laboratory. Appropriate security procedures will be implemented if a visit by a foreign national is desired to prevent unauthorized access. All other U.S. persons visitors will be escorted in the lab at all times by one of the persons authorized to work on the project. Only individuals that have been authorized by ORCA and the PI will have access to the lab where controlled research takes place, unless they are University Officials and Administrators with a valid reason for access.

Disposal

Excess carbon fiber material will be maintained in a red biohazard container locked in the laboratory with the carbon fibers. When full, the Office of Research Compliance will be notified and a representative (US citizen or one lawfully admitted for permanent residence) of that office or Safety and Environmental Compliance will collect the waste. It will then be transported to the locked area in the Medical Science Building where bio-medical waste is stored and incinerated along with the hazardous medical waste. See Attachment E: *Chain of Custody for Disposal*.

Project Personnel Screening Procedures

Personnel

All personnel involved in the conduct of the project will review this plan and complete Attachment A: [*Acknowledgment of Technology Control Plan*](#). All project personnel must have received export control training provided by ORCA. All project personnel are made aware of their responsibilities to prevent either active or inadvertent disclosure of controlled items. Project personnel will be screened against applicable parties' access lists and will have their nationality screened by ORCA. Once approved, the PI will add the project participant's name to

Attachment G: *List of Authorized End Users*. This list will be retained by the PI and be made available to project personnel who need to verify participant's access approval.

Principal Investigator

The PI shall review and sign Attachment B: [*Non-Disclosure Statement*](#). The PI has attended or will attend export control training provided by ORCA. The PI is made aware of his/her responsibilities to prevent either active or inadvertent disclosure of controlled items and of civil and criminal penalties (including prison sentences of up to 10 years and fines of up to \$1M) for failure to comply with United States export control rules. The PI will notify ORCA before adding additional personnel to a project having access to export controlled items.

The PI shall keep the list of authorized end-users up-to-date. ORCA will review each request to add new project participants to determine if the individual is eligible to be added to the TCP and whether or not a license or other authorization is required. It is the PI's responsibility to ensure that all access to controlled technology is prevented once an individual is removed from the TCP.

Training

Training modules on the basic rules of export controls as they apply to a university research setting, and in particular the named project will be offered by the ORCA at periodic intervals. Instruction will include familiarization to the regulations of the EAR, ITAR, and Office of Foreign Assets Control (OFAC), as well as expectations of compliance to said regulations. All project PIs and participants are expected to complete training prior to, or in a timely fashion after, funding.

Project Completion Requirements

Upon completion of a restricted research project, all controlled items will be disposed of or stored properly. The secure storage requirements set forth in the previous sections remain the same after completion of the project.

Special Notes

This section is reserved for any additional special notes of information pertaining to the specific project.

Self-Assessment/Auditing

The PI and department shall notify ORCA (1) each time an additional person is added to the project so that he or she can be screened and trained, and (2) when the scope of the project changes. The PI will certify and the ORCA shall approve that the project is being carried out in compliance with this TCP. The PI and project participants are subject to random audits conducted by ORCA to assure adherence to aforementioned policies. Any items of issue will be reported to the USA Empowered Official. The PI shall annually certify to ORCA that he is complying with the TCP for each export controlled project for which he is responsible. Attachment D: [*Annual Certification of Adherence to Technology Control Plan*](#) will be signed as confirmation.

Submitted:

_____	_____	_____
Principal Investigator	Department	Date

Acknowledgment of Immediate Supervisor:

_____	_____	_____
Supervisor Signature	Department	Date

Office of Research Compliance:

_____	_____	_____
Angela S. Williams, Assistant Director		Date

Attachment A

Acknowledgement of Technology Control Plan (TCP) University of South Alabama: Project Participants

Project Participant:

Project Title:

PI:

Project Start Date:

Acknowledgement:

I hereby certify that I have read and understand the provisions of the University of South Alabama Technology Control Plan for the named project or activity above.

I agree to abide by the requirements in the TCP and the particular security standards for this project, including:

- I will not share export controlled/restricted information with anyone except other Authorized End-Users for this Project or Activity. I know the Principal Investigator or Activity Sponsor maintains a list of Authorized End-Users.
- Reporting violations of the USA TCP and/or security standards.

Initial: _____

Regulatory:

I am aware that export controlled information is regulated by the International Traffic in Arms Regulations ([ITAR](#)) and the Export Administration Regulations ([EAR](#)); and that it is unlawful under these U.S. export control regulations to send or take export-controlled information out of the U.S., disclose, orally or visually, or transfer export-controlled information to a foreign person inside or outside the U.S. unless authorized by the appropriate agency.

Note: Foreign students are not exempt from U.S. export control regulations.

Initial: _____

Penalties:

I understand that the criminal penalty for individuals for unlawful export and disclosure of Export-Controlled Information under the ITAR is up to ten (10) years imprisonment and/or a fine of one million dollars (\$1,000,000) per violation.

In addition, I understand that the criminal penalty for individuals for unlawful export and disclosure of information controlled under the EAR is imprisonment of up to ten (10) years and/or a fine of up to two hundred fifty thousand dollars (\$250,000) per violation.

Other fines or penalties may be assessed for unauthorized disclosure of export controlled/restricted information regardless of form or format to unauthorized persons or entities.

Initial: _____

Training:

I certify that I have been trained by the Office of Research Compliance and Assurance on the basic rules of export controls as they apply to a university research setting and in particular to the named project outlined in the TCP. I am familiar with the regulations of the EAR, ITAR, and the Office of Foreign Assets Control (OFAC), and with expectations of compliance to said regulations.

Initial: _____

Citizenship:

Please check one:

- US Citizen
- US Permanent Resident (Green Card)
- Foreign National
- Country of Origin: _____

Name (Print): _____

Signature: _____ **Date:** _____

Attachment B

Non-Disclosure Statement

I, _____ (insert name of individual) acknowledge and understand that any technical data or defense services related to defense articles on the U.S. Munitions List or disclosure of information pertaining to dual use items on the Commerce Control List to which I have access or which is disclosed to me in the course of my (insert which every term is applicable, employment, assignment, or visit) by/at the University of South Alabama is subject to export control under the International Traffic in Arms Regulations (title 22, code of Federal Regulations, Parts 120-130) and/or the Export Administration Regulations (title 15, code of Federal Regulations Parts 730-774). I hereby certify that such data will not be further disclosed, exported, or transferred in any manner to any foreign national or any foreign country without prior written approval from the United States government or application of lawful exceptions. All listed above as in accordance with the U.S. export controls and customs regulations.

Print name

Signature

Date

Adapted from Central Florida Industrial Security Awareness Council

Attachment C



Bona Fide Employee Letter

Applicable to University of South Alabama employees who are exempt of export control restrictions as a Bona Fide employee of the University

Dear:

You are hereby notified that as _____ (*participant/principle investigator*) in the Sponsored Project _____ (*name of project*) you will be producing International Traffic in Arms (ITAR) export control restricted experimental or developmental items specifically designed or modified for military application or specifically designed or modified for use with a military system and associated technical data. In accordance is ITAR 22 CFR 125.4(b) (10), the ITAR-restricted defense articles or technical data may not be transferred to foreign persons without the prior written approval of the Office of Defense Trade Controls. Prohibited technical transfers include oral, visual, written or electronic disclosure, as well as, transfer of physical custody. Violations of the ITAR can result in criminal penalties for up to 10 years in prison and one million dollars (\$1,000,000) in fines, and civil penalties of up to \$500,000 in fines and forfeiture (22 CFR 127-1 through 127-12). If you have questions about this export control restriction, please call Angela S. Williams (251-460-6509).

Sincerely,

Angela S. Williams
Assistant Director of Research Compliance and Assurance
University of South Alabama

NOTE: Attachment C doesn't need to be signed for this TCP. The Attachment C is a part of template of TCP and is included. However, the Attachment C doesn't apply to the specific scope of this TCP.

Attachment D

Annual Certification of Adherence to Technology Control Plan

I, _____ (insert name of individual) understand that the project (*insert project name*) of which I am Principle Investigator is subject to United States Export Controls Law. I certify that this project remains in compliance with the Technology Control Plan developed between myself and the Office of Research Compliance and Assurance (ORCA) on (*insert date*). In congruence with that instruction any technical data or defense services related to defense articles on the U.S. Munitions List or disclosure of information pertaining to dual use items on the Commerce Control List to which I have access or to which is disclosed to me in the course of my project at the University of South Alabama is subject to export control under the International Traffic in Arms Regulations (title 22, code of Federal Regulations, Parts 120-130) and/or the Export Administration Regulations (title 15, code of Federal Regulations Parts 730-774). I hereby certify that such data or services will not be further disclosed, exported, or transferred in any manner to any foreign national or any foreign country without prior written approval from the United States government or application of lawful exceptions. Furthermore, any deviation from the Technology Control Plan referenced above will be lawfully developed and amended with the assistance of ORCA. All listed above as in accordance with the U.S. export controls and customs regulations.

Print name

Signature

Date

I certify that an audit was conducted during the week of _____ to ensure adherence to the policies of the Technology Control Plan.

Angela S. Williams
Assistant Director of Research Compliance and Assurance
University of South Alabama

Date

Adopted from Central Florida Industrial Security Awareness Council

Attachment E

Chain of Custody for Disposal

Pick up Location:

Initiating Party
Name:

Representative from Safety and Environmental Compliance (251) 460-7070

Transporting Party
Name: Safety and Environmental Compliance Employee

Each time that Safety and Environmental Compliance pick up waste from the lab they will create and mail two copies of the USA Uniform Hazardous Waste Manifest to _____ to be signed by:

- _____ – Generator
- F. Anne Foster – Transporter
- Williams Guess – Final USA disposition

One signed copy of the UHWM stays with _____ for his/her records and one signed copy to be returned to Anne Foster, SEC Dept., for their records.

Attachment F

**UNIVERSITY OF SOUTH ALABAMA
SECURITY STATEMENT**

The College of _____ has approved your request for a key for access to College of _____ after the University's regular scheduled hours for the purpose of:

To Room: _____

I have read the following security statement:

- a) It is the student's responsibility to ensure that security is maintained upon entry to the building and departure from the building.
- b) Access to the building is restricted to your own personal use and solely for the purpose set forth above.
- c) Improper use of keys or duplication of keys is prohibited.
- d) Allowing unauthorized persons access to your keys or entry to the building is prohibited.
- e) All keys assigned must be returned upon completion of the project to the _____. Your \$25.00 key deposit will be refunded to you by the Office of Student Accounting upon return of checked out key.
- f) Are you a United States citizen: ____ yes ____ no ____ US Permanent Resident

Student's Name

Date

Student Number

Telephone Number

Street Address
key

Anticipated duration of time for usage of

City, State Zip

Key Number

Email address

Date checked out

Signature of Student

Date

Attachment G

List of Authorized End-Users

Project Title:

PI:

The following is a list of authorized end users of the export controlled/restricted information for this project or activity. This list should be kept up to date by the PI and retained with all other project documentation.

Project Participant	Date of Approval	Licensing Required Y/N	Date Key Issued	Date of Release from Project/ Key Returned