

WHAT IS AN EXPORT?

An export is:

- Any oral, written, electronic or visual disclosure, shipment, transfer or transmission outside the United States to anyone, including a U.S. citizen, of any commodity, technology (information, technical data, or assistance) or software/codes
- Any oral, written, electronic or visual disclosure, transfer or transmission to any person or entity of a controlled commodity, technology or software/codes with an intent to transfer it to a non-U.S. entity or individual, wherever located (even to a foreign student or colleague at WKU)
- Any transfer of these items or information to a foreign embassy or affiliate

Export laws regulate the distribution to foreign nationals and foreign countries of strategically important technology, services and information to protect national security, foreign policy, and economic goals. These laws apply to ALL ACTIVITIES – not just sponsored research projects.

Where export control regulations apply and where no regulatory exemption is available, an export license will be required before export-controlled items or information can be shared abroad or on campus, with foreign nationals participating or collaborating in affected research projects. The following activities, among others, may be restricted:

- The ability of foreign scholars and students to participate in export-controlled research at Western Kentucky University;
- The ability of Western Kentucky University researchers to disclose or discuss previously unpublished research at conferences and meetings where foreign nationals are in attendance;
- The ability of Western Kentucky University researchers to engage in collaborations with foreign researchers, including restrictions on teaching foreign collaborators how to use export-controlled items in research; and
- The ability to transfer research equipment abroad.

The majority of research conducted on campus is NOT subject to export controls, either because the research does not involve export-controlled items or data, or because research involving such items or data qualifies for an exclusion from the regulations.

There are two exclusions that are relevant to academic research: the fundamental research exclusion and the public domain exclusion. These exclusions will be voided, however, if researchers sign side agreements (including material transfer and non-disclosure agreements) that contain publication restrictions or restrictions on who can participate in the research. **IT IS VITAL THAT YOU DO NOT SIGN ANY AGREEMENTS THAT PERTAIN TO EXPORT CONTROLS, WITHOUT FIRST CONSULTING WITH THE OFFICE OF SPONSORED PROGRAMS OR THAT**

CONTAIN LANGUAGE THAT RESTRICTS PUBLICATION OR WHO CAN PARTICIPATE IN THE RESEARCH.

Particular care must be exercised in the negotiation and acceptance of research projects that may be subject to restrictions on the export of data and information. WKU may accept research agreements that: (1) indicate that technical data generated under the agreement may be subject to export control regulations; and (2) include the requirement that foreign nationals be identified to the sponsor prior to their involvement in the project. If the sponsor exercises further restrictions on the publication of these data or on the access to, or the participation, in the research by foreign nationals, WKU may elect to decline or terminate the agreement if these restrictions are deemed unreasonable under the circumstances. Any agreement that goes beyond these basic parameters, which specifically indicates that the technical data resulting from the project shall be subject to export control and/or reserves sponsor approval in connection with the hiring of foreign nationals—must be evaluated on a case by case basis by the University.