**UNA EXPORT CONTROL POLICY**

**(LIMITING DISTRIBUTION AND SHARING OF INFORMATION, TECHNOLOGY AND COMMODITIES BOTH INTERNATIONALLY AND DOMESTICALLY)**

**Policy Statement**

It is the policy of the University of North Alabama that, absent extraordinary circumstances, teaching, research, and service will be accomplished openly and without prohibitions or restrictions on the publication and dissemination of the results of academic and research activities. Certain federal regulations however, may require the University to obtain permission from the Department of State, the Department of Commerce, or the Office of Foreign Assets Control before allowing foreign nationals to participate in research involving specific technologies or before sharing research information with persons who are not citizens of the United States or permanent resident aliens.

It is also the policy of the University to comply with U.S. export control laws. Export control laws restrict certain types of information, technologies, and commodities that can be transmitted overseas to individuals, including U.S. citizens, or made available to foreign nationals on U.S. soil. These export control regulations have the potential to limit the research opportunities of University researchers and their students, affect publication rights, and prevent international collaboration in certain research areas. In addition, violations of these export control regulations can result in the loss of research contracts, monetary fines, or incarceration of individuals. The regulations do not apply, however, to information that is in the public domain or to information that is the result of fundamental research activities. Therefore, it is the policy of UNA to pursue its mission in teaching, research, and service in a manner that is consistent with the applicable export control regulations while making reasonable efforts to maximize the situations in which the University may claim the benefit of the public domain or fundamental research exemptions to the regulations.

**Reason for Policy/Purpose**

The export of certain items, technologies, software and services is regulated for reasons of national security, foreign policy, prevention of the spread of weapons of mass destruction and for competitive trade reasons. Prior written authorization (a “license”) from one or more U.S. government agencies will be required to carry out certain sponsored research or other educational activities involving specified technologies or certain countries, if an exemption or exclusion is not available.

Export control laws restrict the shipment, transmission or transfer of certain items, software, technology and services from the U.S. to foreign countries, as well as “deemed exports,” which are releases of controlled technology and software source code to foreign nationals located in the U.S.

Although many of the University’s activities are exempt from export control laws, some activities may be restricted. Failure to comply with these laws exposes both the employee and the University to severe criminal and civil penalties (fines and prison sentences) as well as administrative sanctions (loss of research funding and export privileges).

In cases where the President, Vice President of Academic Affairs, the Office of Sponsored Programs or the Principal Investigator(s) believe that a sponsored research effort or software, technologies, data, equipment, intellectual capital acquired and or developed using sponsored research funds may be subject to US export regulations then the any of the aforementioned parties can require a legal review of the research to determine applicability and compliance to export control regulations.

If a legal review of the research to determine applicability and compliance to export control regulations is required then the review will proceed as follows:

1. The Office of Sponsored Programs (OSP) will review the terms of the contract or grant for provisions that restrict access to or publication of research and technical data, that limit the participation of foreign nationals in the research effort, or otherwise render the exemptions from the export control regulations inapplicable.
2. In conjunction with the PI, the OSP will complete *Export Control Review*, (see Appendix A). If the results of the review indicate that an exemption from the export control regulations may not be available, the OSP will submit the checklist and supporting documentation to UNA’s legal counsel to confirm the review.
3. If UNA’s legal counsel confirms the review, then the PI, UNA’s legal counsel, and the OSP will determine if the research falls into one of the categories of technology designated by the Department of State or the Department of Commerce as export controlled, or if the restrictions imposed by the Office of Foreign Assets Control apply. If the research contract or grant falls under the terms of any of these regulations, UNA’s Legal Counsel, acting on behalf of UNA will contact the research sponsor to attempt to negotiate the removal or modification of the provisions in the contract or grant that impact the University’s exemption from export control regulations. If such negotiation does not result in the removal or modification of the identified clauses, the matter will be referred to the Vice President of Academic Affairs to determine whether the University will apply for an export control license, conduct the research under the export control restrictions, or abandon the research effort due to the possible burdens or restrictions associated with compliance with the regulations.
4. If the Vice President for Academic Affairs determines that the University will apply for an export control license, UNA’s Legal Counsel will proceed to make application for the appropriate license. No work under a contract or grant, or sponsored contract or grant, can begin until this process has been completed and any required export control license has been issued.

**Federal Regulations, Resources, and Penalties: Overview**

The Department of State, through its International Traffic in Arms Regulations (ITAR) of the Directorate of Defense Trade Controls (DDTC), and the Department of Commerce, through its Export Administration Regulations (EAR) of the Bureau of Industry and Security (BIS), have implemented regulations governing export of certain technologies, information, and software. The U.S. export controls also apply to “re-exports” of items, software and technology subject to U.S. law from one foreign country to another. In addition, the Department of Treasury, through its Office of Foreign Assets Control (OFAC), maintains targeted economic sanctions programs that restrict or prohibit a wide range of export and other transactions which may include educational services involving designated countries, entities and individuals.

**Penalties:**

Individual liability for the disclosure of controlled technical data to unauthorized foreign persons under the ITAR can reach up to $1 million per violation and 10 years imprisonment for willful violations, and civil fines up to $500,000 per violation. A university found to be in violation of ITAR regulations can be debarred from contracting with the government and could lose its export privileges. Liabilities under the EAR may involve fines greater of $1 million for each willful violation. Individuals can be fined up to $1 million and imprisoned for 20 years, or both. Civil penalties can reach up to $250,000 or 2 times the value of the transaction, whichever is greater, per violation. The university itself and individual faculty, staff and researchers can also lose their privilege to export and may be debarred from contracting with the federal government.

**Resources:**

For information on the EAR, visit the Bureau of Industry and Security at: [http://www.bis.doc.gov/.](http://www.bis.doc.gov/) For information on ITAR, visit the Directorate of Defense Trade Controls at:

[http://www.pmddtc.state.gov/regulations\_laws/itar\_official.html.](http://www.pmddtc.state.gov/regulations_laws/itar_official.html)

For information about the Office of Foreign Assets Control, visit: [http://www.treasury.gov/offices/enforcement/ofac/.](http://www.treasury.gov/offices/enforcement/ofac/)

For information on the SDN list and U.S. economic sanctions, visit [http://www.treas.gov/offices/enforcement/ofac/sdn/index.shtml.](http://www.treas.gov/offices/enforcement/ofac/sdn/index.shtml)