# EXPORT CONTROL REVIEW FORM

*(TO BE COMPLETED BY OSP AND PI FOR ALL PROJECTS IN ENGINEERING AND THE SCIENCES, AND OTHER PROJECTS INVOLVING TECHNICAL DATA)*

**RESEARCH TITLE:** ________________________________  **CONTROL NUMBER:** _________________________

**AGENCY/SPONSOR NAME:** ___________________________  **PRINCIPAL INVESTIGATOR:** _________________

## I. CONTRACT REVIEW

**DOES THE CONTRACT, STATEMENT OF WORK, OR ANY RELATED DOCUMENT CONTAIN OR CONTEMPLATE ANY OF THE FOLLOWING:**

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
<th>IF YES, LIST APPLICABLE DOCUMENT &amp; SECTION #</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>□</td>
<td>□</td>
<td>References or, incorporates a separate non-disclosure or confidentiality agreement, or includes other confidentiality obligations.</td>
</tr>
<tr>
<td>2.</td>
<td>□</td>
<td>□</td>
<td>States that the contract activity is subject to U.S. Export control laws.</td>
</tr>
</tbody>
</table>
| 3. | □   | □  | Any restriction on the publication or dissemination of information including:  
|    |    |    | - Prepublication review by the Sponsor. |
|    |    |    | - Sponsor’s right to withhold technical information from publication. |
|    |    |    | - Other restriction on publication or dissemination of the research or any technical information used during research activities. |
| 4. | □   | □  | Items will or may be exported to a foreign destination. |
| 5. | □   | □  | Any restriction on foreign nationals participating in contract activities. *(Note: “Foreign National” (i.e., non-U.S. Person) are those, regardless of location in or outside the U.S., who are not U.S. citizens or nationals, lawful permanent residents, persons granted asylum or refugee status, or Temporary Residents. Non-U.S. persons include individuals in nonimmigrant status such as H-1B, L-1, F-1, etc. and those in the U.S. without lawful status.)* |

**IF YOU ANSWERED “NO” TO EVERY QUESTION ABOVE, SKIP SECTION II, SIGN AND DATE BELOW. IF YOU ANSWERED “YES” TO ANY QUESTION, COMPLETE SECTION II BEFORE SIGNING AND DATING.**

## II. EXPORT CONTROL DETERMINATION

- | Research activity is considered “Publicly Available/Public Domain” (which includes among other things “Fundamental Research”) as defined by U.S. export control laws. End review. |
- | Research activity is not subject to U.S. export controls laws for some other reason (for example, it does not involve “technology” or “technical data”). End review. |
- | Research activity is subject to U.S. export control laws. The applicable U.S. export controls are as follows:  
|    | EAR: ECCN(s) ___________________________________________ |
|    | ITAR: USML Category(ies) _______________________________ |
The Principal Investigator has been briefed on U.S. export control restriction and will implement export control compliance guidelines, as provided by OSP, during the course of the contract activity.

PI Signature: __________________________ Date: __________________________
OSP Signature: __________________________ Date: __________________________

Instructions: Completing the Export Control Review Form

This form shall be completed for all projects arising out of the College of Engineering and the Sciences, as well as other projects involving technical data. A completed copy shall be retained in OSP.

U.S. export control laws, including the Export Administration Regulations (“EAR”) and International Traffic in Arms Regulations (“ITAR”), require that Bucknell obtain an export license prior to providing controlled technologies to foreign national employees, professors, students, researchers or other foreign national collaborators. However, information generated during the course of “Fundamental Research”, as defined by these laws, is exempt from export licensing requirements through the publicly available or public domain exclusion.

As an academic institution, it is important that Bucknell instruction and research be conducted openly and without restriction on access, publication or dissemination and that, unless unavoidable, information generated during the performance of any research, including contract activities, is not subject to U.S. export control requirements and/or qualifies for the Fundamental Research exclusion of the EAR or ITAR (see EAR §734.8 and ITAR §120.11(8) for Fundamental Research provisions). Additional Export Compliance information is available at https://bucknell.edu/ExportControls.

I. CONTRACT REVIEW

The Export Control Review Form, Section I, lists problematic provisions, restrictions and conditions that may trigger export licensing requirements. Bucknell shall attempt to avoid such problematic provisions, restrictions or conditions through negotiation with the Sponsor.

The following examples are provided for reference only.

1. The contract activity is subject to U.S. export control laws.

   **Comment:** Fundamental Research exempts such activities from U.S. export control laws. Accordingly contract language that suggests the activity is subject to U.S. export control laws, and thus not exempt, may defeat the Fundamental Research exemption.

   **Example:** AFMC 5352.227-9000 Export Controlled Data Restrictions

2. Any restriction on the publication or dissemination of information, including:

   - Prepublication review by the Sponsor.

   **Comment:** Under the Fundamental Research exclusion only limited prepublication review by the Sponsor is permissible, including review to ensure publication would not compromise patent rights or inadvertently divulge the Sponsor’s proprietary information. The government has specifically stated that sponsor prepublication review to determine whether the sponsor wants to hold research results as proprietary information (even if it would need the researcher’s cooperation to do so) invalidates the fundamental research exemption.

   **Example (acceptable but nonetheless should be flagged for review):** Sponsor recognizes that under University policy, the results of University Project must be available for publication and agrees that researchers engaged in Project shall be permitted to present at symposia, national, or regional professional meetings, and to publish in journals, theses or dissertations, or otherwise of their own choosing, methods and results of Project, provided, however, that Sponsor shall have been furnished copies of any proposed publication or presentation for review at least thirty (30) days in advance of the submission of such proposed publication or presentation to a journal, editor, or other third party. Sponsor shall have thirty (30) days after receipt of said copies, to object to such proposed presentation or proposed publication because there is patentable subject matter that needs protection.
- **Sponsor’s right to withhold information from publication.**

**Comment:** The Fundamental Research exemption is not available if the university accepts restrictions on publication of scientific or technical information resulting from the research, including the right to withhold information from publication.

This means that any restriction on publication, including a Sponsor prohibiting any technical information from dissemination, can render the information subject to U.S. export control laws.

*Example:* “Sponsor shall have thirty (30) days to object to any proposed presentation or proposed publication because Sponsor’s technical information is contained therein.”

- **Other restriction on publication or dissemination.**

**Comment:** Restrictions on publication or dissemination may appear in a variety of forms. The Contract Manager should consult with the Office of the General Counsel to further analyze potentially restrictive provisions.

*Example:* H-6 Dissemination of Information (Prime contracts), ARL 525.005-4401 Release of Information (Army Regulations), FAA Civil Aviation Security Publication

3. **Items will or may be exported to a foreign destination.**

**Comment:** The term “items” includes hardware, equipment, materials, and software that may be required to support contract activity. The Fundamental Research exclusion pertains only to “information” and does not cover the export of hardware, equipment, and materials and certain software to a foreign destination.

4. **Any restriction on non-U.S. citizens or persons participating in contract activities.**

**Comment:** Access or participation restrictions may invalidate the Fundamental Research exclusion. Examples include, but are not limited to, U.S. citizen only restrictions or limitations on acceptable nationalities.

*Example:* ARL 52.004-4400 Foreign Nationals Performing Work Under Contract, 52.0000-4017 Foreign Nationals (Army Corps of Engineers), H.2 Foreign Nationals (FORNAT), AFMC 5352.227-9000 Export Controlled Data Restrictions, NSA Section K Representations