



Flinders University

Defence Export Controls Internal Compliance Program

Best Practice Guidelines

1. Purpose

To express Flinders University's commitment to compliance with defence export control legislation, and convey compliance expectations and requirements for University staff, students and affiliates.

2. Scope

These guidelines apply to Flinders University staff, students and affiliates worldwide.

3. Definitions

'Researcher' means any staff member, person awarded honorary or academic status by the University, student, or person otherwise associated with the University, who conducts research in the course of employment, study or a formal research affiliation with the University.

'Defence export control' refers to both the tangible export and intangible supply, publication or brokering of controlled goods or technology outside of Australia, as regulated under the Customs Act 1901, the Defence Trade Controls Act 2012, and other associated legislation and regulations.

'Defence Export Controls' (DEC) is the Australian Government agency responsible for oversight and regulation of Australian export controls.

4. Commitment to Compliance

Flinders University provides a research environment that promotes a high standard of professional conduct of its researchers, and a culture of research practice that is ethical, competent, safe and accountable. Research within the University must be conducted in accordance with all relevant legislation, guidelines and University policies and procedures.

Australian defence export control legislation and regulations are designed to protect national security interests, prevent terrorism, and stem the proliferation of military goods and technologies associated with conventional, chemical, biological and nuclear weapons and the systems that deliver them. To achieve this aim, the export and supply of controlled goods, technology and information outside of Australia is restricted, and prior approval is required from Defence Export Controls (DEC) before export or supply of controlled goods or technologies takes place.

Flinders University is committed to compliance with applicable defence export control legislation and regulations, namely the Customs Act 1901, the Customs (Prohibited Exports) Regulations 1958, the Weapons of Mass Destruction (Prevention and Proliferation) Act 1995, the Defence Trade Controls Act 2012, the Charter of the United Nations Act 1945 and the Autonomous Sanctions Act 2012.

The University has implemented procedures to support compliance with defence export control legislation. The procedures are administered by the Research Services Office (RSO), and further information is available on the Flinders University defence export controls website, in this document and in the Flinders University Defence Export Control Compliance and Procedures Manual (RSO internal document). Training sessions are provided to University staff, students and affiliates, and one-on-one assistance is also available for affected individuals.

It is the responsibility of all University staff, students and affiliates to prevent the unapproved export, supply, publication, or brokering of controlled goods or technologies, or any other activity that may violate Australian defence export controls.

5. Structure and Responsibility

At Flinders University, the Research Services Office (RSO), operating under the Deputy Vice-Chancellor (Research), is responsible for the management and oversight of the University's defence export control obligations.

The Director, Research Services is the primary nominated University contact for DEC and will function as the Chief Compliance Officer as specified in DEC documentation.

The Research Ethics and Integrity Team from the RSO oversee the day-to-day operation of defence export controls at the University, and will function as the Defence Export Control Unit as specified in DEC documentation. Within this team, the Manager, Research Ethics and Integrity will function as the Defence Export Control Manager (as specified in DEC documentation) and will work with the Ethics Officer (Biosafety and Defence Export Control) to provide the following services to University staff, students and affiliates in relation to defence export control:

- Communication with University staff, students and affiliates
- Training
- Assistance with preparation of 'Application[s] to Export Controlled Goods and Technology'
- Submission of 'Application[s] to Export Controlled Goods and Technology'
- Record keeping
- Auditing
- Preparation of University guidelines, websites and Internal Compliance Program (ICP) documentation for defence export control

It is the responsibility of individual University staff, students and affiliates to ensure that:

- an approval/permit is obtained before any overseas export or supply activities take place involving controlled goods or technologies;
- all conditions specified on permits/approvals are followed; and
- records relating to export/supply transactions are appropriately maintained.

Assistance can be provided by the RSO to determine whether a permit is required.

6. Export Screening Procedures

In most cases, University activities affected by defence export controls will occur when technology (research data or information) is shared between a researcher at the University and a known collaborator at an overseas institution. Therefore, in most cases, export screening procedures will be lessened compared to those required by a company supplying controlled goods or technologies to an unfamiliar overseas buyer.

However, as part of due diligence, researchers will be required to complete a standard 'Export Control Internal Application Form' before applying for approval to export controlled goods or technology under the University's Australian General Export Licence. This document acts as both a screening tool and as a record of intended export activities. Assistance with completing the form is available from the RSO as required.

The RSO will also complete an internal checklist to conduct a compliance assessment when a request is received from researchers to conduct an export/supply activity. An example of the checklist used for this purpose can be found in Appendix A.

7. Export Compliance Monitoring and Auditing

The Manager, Research Ethics and Integrity, in liaison with the Ethics Officer, will prepare an annual report to the institution outlining all University activities related to defence export control from the previous year. The report will be provided to the Deputy Vice-Chancellor (Research), as the Vice-Chancellor's delegate.

The Ethics Officer will perform an annual audit of research outputs (publications, conference papers, research projects, and Material Transfer Agreements) to identify individuals at the University who are conducting research related to areas covered by the DSGL. Where necessary, the Ethics Officer will contact affected individuals to ascertain requirements for export approvals.

Researchers holding current approvals will be contacted by the RSO annually to assess compliance. Specific areas to be addressed as part of this audit include record keeping practices, and activities carried out under existing approvals during the past year.

8. Training

Researchers in disciplines affected by defence export control legislation (i.e., research with defence or military applications, and areas identified in the DSGL as having dual-use potential) have been identified as the primary group requiring training. Training will be provided to targeted Colleges, Centres and Institutes. Training will take the form of seminars, a dedicated website, referral to scenarios supplied on the DEC website, and tailored training sessions delivered to affected research groups upon request. A brief introduction to defence export control will also be presented twice annually at the Research Integrity training seminars to target new University staff, students and affiliates at the University who may be affected by defence export control legislation.

The learning objectives to be covered during training include:

- an introduction to defence export control legislation in Australia;
- how defence export control affects individual researchers;
- what goods and technologies are controlled (introduction to the DSGL);
- what research activities are controlled (export, supply, publication and brokering);
- exemptions under the Defence Trade Controls Act;
- how researchers can identify whether their research will be affected;
- how to apply for approval to export or supply controlled goods/technologies; and
- compliance and record keeping requirements under a permit to export or supply controlled goods/technologies.

Internal training records will be archived as per record keeping mechanisms outlined below and in accordance with the University's [Records Management Policy](#) and [guidelines](#).

9. Record Keeping

Records of all licence and permit applications, approvals, associated correspondence and documentation, and annual reports to the institution, will be retained and filed by the RSO on the University's electronic document and records management system, HP Records Manager (HPRM). All records will be maintained for a minimum of 5 years, and copies of permits will be retained for a minimum of 5 years after the expiry date of the permit.

Internal training and audit records will be maintained and archived by the RSO on the shared drive of the University network.

Individual researchers will be responsible for maintaining records of approved export/supply transactions for controlled goods, technologies or software. Researchers will be advised, upon obtaining approval for export/supply, that these records must be maintained for a minimum 5 year period, and should be stored on the shared drive of the University network.

The responsibilities of researchers and professional staff with regards to record keeping compliance at Flinders are further detailed in the University's [Records Management Policy](#), and associated [guidelines](#).

10. Reporting Procedure

In the event of actual or suspected violations of defence export control regulations, researchers should notify the Director, Research Services or the Manager, Research Ethics and Integrity of such misconduct.

If a violation of defence export control laws and regulations is confirmed, the Director, Research Services and the DVC(R) will be notified, and a report will be sent from the Director, Research Services to the appropriate authority without delay. The Department of Immigration and Border Protection will be notified in the event of a confirmed breach relating to physical exports of controlled goods. The Department of Foreign Affairs and Trade (DFAT) will be notified in the event of a confirmed unapproved export to a destination subject to Australia's autonomous sanctions. The DEC will be notified in the event of a confirmed breach relating to supply, publication or brokering of controlled technology or software.

If the Manager, Research Ethics and Integrity is unsure if a violation of defence export control regulations has occurred, the Director, Research Services will be notified of the situation and DEC will be contacted for advice and guidance.

Appendix A

This form is an example of the internal checklist used by the Research Services Office to conduct a compliance assessment against a particular export/supply activity.

Flinders University

Export Compliance Checklist

Date (dd/mm/yy):

Applicant:

Lay description of goods/technologies:

Export/supply activity description:

Recipient of goods/technologies:

Destination country:

Section 1: Exports that may be controlled, for military use, or have a WMD utility

For questions in this section:

- *If the answer is yes, then an export permit is required.*
 - *If the answer is no, move to the next question.*
 - *If you are unsure, contact DEC for further information.*
- a) Does the export activity involve goods/technology specially designed or modified for military use (including production equipment intended to produce military goods)?
Yes No
- b) Are the goods listed in the Defence and Strategic Goods List (DSGL)?
Yes No
- c) Could the goods assist a Weapons of Mass Destruction program, including ancillary activities used to support such programs? Yes No
 - This includes for use in chemical or biological weapons;
 - An end-use that is nuclear-related; or
 - For the development of, or use in, missiles or rockets.
- d) Are any 'red flags' triggered? Yes No
 - Please refer to the DEC 'Detecting Suspicious Approaches' website at:
<http://www.defence.gov.au/deco/detecting.asp>

Section 2: Sanctions

For questions in this section:

- If the answer is yes, submit an enquiry to the Department of Foreign Affairs and Trade (DFAT) using the Online Sanctions Administration System (OSAS):
<http://dfat.gov.au/international-relations/security/sanctions/Pages/online-sanctions-administration-system.aspx>
 - If the answer is no, move to the next question.
- a) Is the export or supply to an end-user in a country subject to United Nations Security Council (UNSC) sanctions or Australian Autonomous Sanctions? Yes No
For the lists of countries to which sanctions apply see:
<http://dfat.gov.au/international-relations/security/sanctions/pages/sanctions.aspx>.
- b) Does the export involve goods or technologies that are controlled under the sanctions measures? (Note that sanctions measures are targeted to the situation of concern in individual countries. Therefore the goods that are controlled may differ among countries). Yes No
- c) Does the export or supply involve any related technical assistance, training or other services? Yes No
- d) Is the recipient a person or entity listed as being subject to UNSC or Australian autonomous sanctions on the Consolidated List? Yes No
<http://dfat.gov.au/international-relations/security/sanctions/Pages/consolidated-list.aspx>

Section 3: Checklists

For the lists specified in this section, refer to:

<http://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern>

- a) Is the recipient/end-user on the US Denied Persons List? Yes No
- b) Is the recipient/end-user on the US Unverified List? Yes No
- c) Is the recipient/end-user on the US Entity List? Yes No
- d) Is the recipient/end-user on the US Specially Designated Nationals List? Yes No
- e) Is the recipient/end-user on the US Debarred Parties List? Yes No
- f) Is the destination country under US embargo or sanctions? Yes No

If you have answered yes to any of these questions, contact DEC prior to proceeding with the export/supply activity.

Section 4: Summary

- a) Section 1 – Is an export permit required? Yes No
- b) Section 2 – Is an enquiry application to DFAT required? Yes No
- c) Section 3 – Is an enquiry to DEC required prior to proceeding? Yes No

Advice to applicant: