

# Export Control

Michael Y. Tu  
NASA Headquarters Associate Export  
Administrator (AHEA)  
12 August 2024

# Compliance is part of the NASA mission

NPD 2190.1B “It is NASA policy to ensure that exports and transfers of commodities, technical data, or software to foreign persons and foreign destinations are carried out in accordance with Export Administration Regulations.”

NPR 2190.1C “We want to maximize the benefits of our international efforts while ensuring that we comply with U.S. export control laws and regulations. This is the personal responsibility of each employee.”

Compliance is everyone’s job at NASA

# What is an Export?

- Includes, but not limited to:
  - Shipments/transmission out of the U.S.
- ‘Export’ can also involve:
  - Releasing technical data, technology or to a foreign person in the U.S.
- ITAR and EAR also regulate:
  - Defense services, WMD related activities

U.S. export control regulations define “export”



# Export control laws and regulations



Department of  
State

International Traffic  
in Arms  
Regulations (ITAR)

Defense articles,  
technical data,  
defense services

United States  
Munitions List  
(USML)



Department of  
Commerce

Export  
Administration  
Regulations (EAR)

Commercial items,  
dual-use items,  
less sensitive  
munitions

Commerce Control  
List (CCL)

Missile Technology Control Regime items appear on both the USML and CCL

If an items is listed on the USML or the CCL, an export authorization determination is required.

# Technical Data and Defense Services

---

ITAR (under State Department) defines technical data and defense services as:

## **Technical Data**

Technical data is information that is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of an export-controlled item and must be protected in accordance with export control regulations (ITAR).

## **Defense Service**

The furnishing of assistance (including training) to foreign persons, whether in the United States or abroad in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing or use of defense articles (ITAR).

# Technology

---

EAR (under Commerce Department) defines “technology” as:

## **Technology**

Per EAR, Information necessary for the “development,” “production,” “use,” operation, installation, maintenance, repair, overhaul, or refurbishing (or other terms specified in ECCNs on the CCL that control “technology”) of an item

# Technology

---

Per EAR, “technology” may be in any tangible or intangible form, such as written or oral communications, blueprints, drawings, photographs, plans, diagrams, models, formulae, tables, engineering designs and specifications, computer-aided design files, manuals or documentation, electronic media or information revealed through visual inspection;

Per EAR, The modification of the design of an existing item creates a new item and technology for the modified design is technology for the development or production of the new item.

# Best practices

---

- Mark or identify (or redact) export-controlled and proprietary information in proposals
  - Marking either pages, sections, or paragraphs
- Identify all foreign partners and participants
- Understand your responsibilities under the U.S. export control regulations
  - Articulate your export control plans



# NASA's International Agreements

- NASA's International Agreements - the basis for NASA foreign cooperative (or reimbursable) activity
  - define the responsibilities of the parties, scope of the work to be performed, & the terms and conditions under which the cooperation will be affected
- All NASA International Agreements contain a clause on transfers of controlled goods & data
- NASA's International Agreements do **NOT** trump export control laws & regulations

*An International Agreement does not replace a contractor's need for a license or other export authorization.*

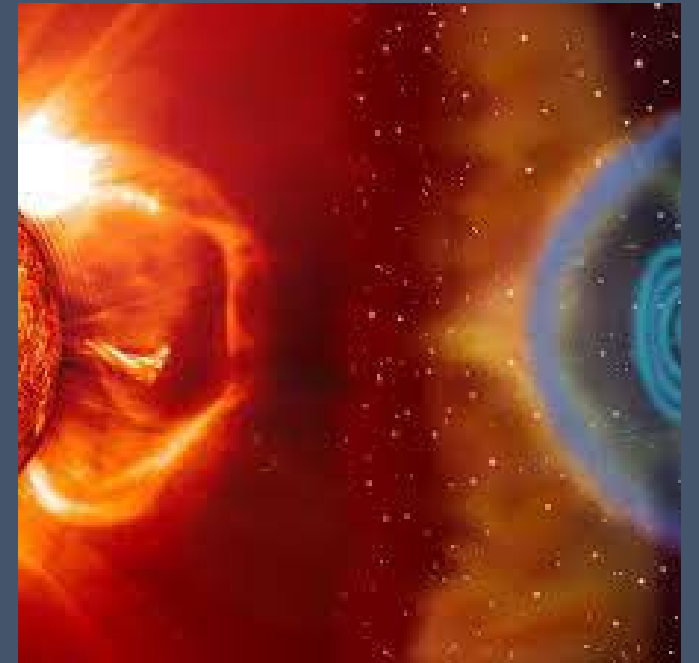
# NASA contractors and export control

- Contractor and their subcontractors are responsible for export compliance, including obtaining the required export authorizations and keeping the required records, in the execution of contracted work (NASA Federal Acquisition Regulations (FAR) Supplement (NFS) 1825.1103-70 and 1852.225-70)
  - NFS Clause 1825.1103-70 “Export control”
  - NFS Clause 1852.225-70 “Export Licenses”
- NPD/NPR 2190 is applicable to NASA contractors and grantees as required in their contracts or grants
- NASA contractors, should be coordinating with NASA in advance of any license application that will further a NASA program
- NASA provides review of licenses submitted to the Department of State and the Department of Commerce

# Important links

---

- The Department of State is the regulatory authority for defense articles and defense services.  
<http://www.pmdetc.state.gov/>
- The Department of Commerce is the regulatory authority for dual-use items.  
<http://www.bis.doc.gov/>
- The NASA Export Control Program is at <https://www.nasa.gov/oirr/export-control>



# Questions

---

Juan Santos

[juan.f.santos@nasa.gov](mailto:juan.f.santos@nasa.gov)  
202-358-1792

Mike Tu

[michael.y.tu@nasa.gov](mailto:michael.y.tu@nasa.gov)  
202-358-1196

Jason Rodriguez

[jason.t.Rodriguez@nasa.gov](mailto:jason.t.Rodriguez@nasa.gov)  
202-358-3996