

## **Supplier Awareness**

### **Export Control/ ITAR**

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# ***What is Export Control?***

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- ▲ In general the U.S. Government controls the export and import of certain articles in order to keep sensitive technologies and material out of the hands of persons and countries determined to be hostile to the U.S. or our allies
- ▲ Export is controlled by different government agencies
  - Department of Commerce
    - Commercial items
    - Dual use
    - Items Contained on the Commerce Control List
  - Department of State Directorate of Defense Trade Controls
    - Defense Articles list
    - ITAR – International Trade In Arms Regulations
  - Nuclear Regulatory Commission
    - Commercial nuclear power technology
  - Department of Energy
    - Defense nuclear technology

# Why Do We Care ?

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## ▲ Substantial Penalties

- A felony conviction, jail time and very large fines
  - Companies
  - Employees who knowingly violate or fail to follow the rules

## ▲ Supplier could lose ability to perform work for government and defense contracts

## ▲ Supplier could lose the ability to work on exportable contracts



- ▲ PaR is responsible for project classification and determination of license requirements
  - Determine what agency has basic jurisdiction
  - Determine dual use designation
  - Determine the appropriate Commerce Control
  - Define the country the export is for
  - Determine if a license is required
  - Confirm the excluded entities & denied persons lists
  - Any drawings or documents that imply or provide specific information that are Export or ITAR controlled will be designated as such (example drawing stamp appears below)

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# Supplier Responsibility

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- ▲ The Supplier is responsible to become familiar with the government requirements for Export Control and ITAR
- ▲ The Supplier is responsible to comply to applicable government requirements for Export Control and ITAR
  - Supplier must register with the State Department Directorate of Defense Trade Controls (DDTC). Suppliers must provide PaR with a copy of its registration approval letter
  - <http://www.pmdrtc.state.gov/registration/index.html>
- ▲ The Supplier is responsible to flow-down Export Control and ITAR requirements through its supply chain
- ▲ Links provided for reference:
  - [http://www.pmdrtc.state.gov/regulations\\_laws/itar\\_official.html](http://www.pmdrtc.state.gov/regulations_laws/itar_official.html)
  - [http://www.pmdrtc.state.gov/regulations\\_laws/documents/official\\_itar/ITAR\\_Part\\_120.pdf](http://www.pmdrtc.state.gov/regulations_laws/documents/official_itar/ITAR_Part_120.pdf)

# ***What is the scope of Export Control?***

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- ▲ Export Control includes control of knowledge, equipment, and services
  - Technical information
  - Process or application information or knowledge
  - Physical objects and software
  
- ▲ Export Control applies to what you are sending and where it is sent
  - Need to know all of the parties involved and the intended end-use

# ***What is the scope of Export Control?***

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- ▲ Export Control applies to information passed to Foreign Persons
  - A “Foreign Person”
    - is not a lawful permanent resident or U.S. citizen
    - is a foreign corporation, business, or organization not incorporated in the U.S. or a U.S. Citizen representing such a company
    - is a foreign government embassy and any agency or agent of a foreign government
    - requires a license to receive controlled technical information
- ▲ Transfers can occur within the U.S.

# ***What is the scope of Export Control?***

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- ▲ Export Control does not apply to information or equipment passed to US Persons within the U.S.
  - A “U.S. Person”:
    - is a U.S. Citizen or
    - is a lawful permanent resident (Green Card) or a protected individual or
    - is any corporation, business, or organization that is incorporated to do business in the U.S. or
    - is any U.S. government (local, state, or federal) entity.
    - can receive controlled technical information without a license
- ▲ Note: US companies may employ foreign persons, so care is always required when sending technical data or export controlled equipment to US person



**Providing controlled technical information or products to a “Foreign Person” either explicitly or inadvertently without a license is a violation.**

- ▲ PaR products that get installed on a Navy ship are controlled under ITAR
  - Even if the basic design is standard it may have been modified to Navy specifications
- ▲ Robotic machine designs may be export controlled and require a license to certain countries no matter what the use
- ▲ Automation applications and particular information known about the end use and parts to be processed may be ITAR controlled

# ***What are some areas of concern?***

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- ▲ Providing technical information to a “Foreign Person” in the U.S. either explicitly or inadvertently is exporting
  - When applicable, we need a license before we do this, doing so without a license is a violation and we are subject to penalties
- ▲ Allowing people to access controlled information without informing them can lead to a violation
  - E.g leaving controlled information lying around when foreign persons are present (i.e. maintenance, cleaning personal, visitors)
    - They could unknowingly retransfer that information to a Foreign Person
  - We must pass knowledge of Export Control to all members of the supply chain
- ▲ Sending a technical proposal overseas or providing it to a Foreign Person in the US may need a license depending on classification
- ▲ Sending a technical RFQ or PO with technical information to a foreign supplier may require a license
  - A Supplier Non Disclosure Agreement must be in place

# Who Has Access?

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- ▲ Employees
- ▲ Contractors
- ▲ Visitors
- ▲ Suppliers & Sub Contractors
  - For key subs who have access to controlled information you are **REQUIRED** to flow down all control requirements
- ▲ Do you know who is in the building?
  - Are all of these people US Persons?
- ▲ Don't leave controlled information out and available or on a computer screen if you are not there

## ▲ Notebook Computers

- If you leave the country with controlled data on your computer you are violating the law unless you have a license to export that data
  - This includes attachments and messages in email
- Deleting files does not remove the data from your computer
  - Must use secure erase at least DOD level 3
- Data security if stolen
  - If you must carry critical information it should be protected (encrypted) and licensed

## ▲ Email

- Emails and email attachments are maintained in outlook until deleted
  - You may have ITAR and Export controlled information in your outlook file in attachments
- Don't send file copies by email, send links for internal recipients
- Don't embed controlled technical data in email text
- Don't leave email and email attachments that you receive with controlled data in your email folder

- ▲ Acceptable transmission
  - Secure encrypted services
    - PaR IS can set up a secure FTP for a supplier
    - Secure courier services are also acceptable
  - Encrypted email
- ▲ PaR IS has tools to use in data security
  - Erasing
    - Eraser – provides several erasing options including DOD
    - Once you erase something it cannot be recovered
  - Encryption software
    - Creates a virtual disk on a hard drive or memory stick

# ***PaR Visitor Policy***

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- ▲ All PaR visitors are required to comply with PaR's Visitor Policy
  - Visitors must sign in and disclose citizenship or immigration status
  - Visitors must disclose if they are representing foreign governments or companies not incorporated in the U.S.
  - Visitors must be aware of our safety policies and follow the policy explicitly
  - Visitors must wear a badge at all times
  - Visitors must be escorted at all times unless specifically stated otherwise
  - A Non Disclosure Agreement must be in place prior to technical or commercial discussions
  - Suppliers are restricted to assigned meeting areas
  - No cameras or photography allowed
- ▲ What is your visitor policy?

- ▲ It is every supplier's responsibility to control information
- ▲ If in doubt, ask and...

Use Common Sense