



EXPORT CONTROL PROTOCOLS

PROTOCOLS STATEMENT

Any student, faculty or staff member of Lipscomb University or Lipscomb Academy (together, "Lipscomb") proposing to conduct or participate in Externally Funded Research or Sponsored Program, or Transfer goods, data, materials, or information to any Foreign National or Foreign Person must follow the requirements set forth in these protocols.

DEFINITIONS

Capitalized terms that are used but not otherwise defined in these protocols have the following meanings:

CFR means Code of Federal Regulations.

Dual Use Research of Concern means life sciences research that, based on current understanding, can be reasonably anticipated to provide knowledge, information, products, or technologies that could be directly misapplied to pose a significant threat with broad potential consequences to public health and safety, agricultural crops and other plants, animals, the environment, materiel, or national security.

Entity of Particular Concern means the designation made by the U.S. Secretary of State of a nonstate actor engaging in particularly severe violations of religious freedom and may include, without limitation, Qa'ida affiliate Al-Shabaab, Boko Haram, Hayat Tahrir al-Sham, the Houthis, ISIS-Sahel (formerly known as ISIS-Greater Sahara), ISIS-West Africa, al Qa'ida affiliate Jamaat Nasr al-Islam wal Muslimin, and the Taliban.

Equipment means, without regard to total cost or requirement for procurement, a combination of parts, components, accessories, attachments, firmware, or software that operate together to perform a function of, as, or for an end-item or system. Equipment may be a subset of an end-item based on the characteristics of the equipment. Equipment that meets the definition of an end-item in 22 CFR § 120.40(b) is an end-item. Equipment that does not meet the definition of an end-item is a component, accessory, attachment, firmware, or software. For purposes of these protocols, *Equipment* does not imply the definition provided in 2 CFR § 200.1.

Export, except as set forth in 22 CFR §§ 120.54, 126.16 or 126.17, means:

- An actual shipment or transmission out of the United States, including the sending or taking of a defense article out of the United States in any manner;
- Releasing or otherwise transferring Technical Data to a Foreign Person in the United States (a deemed export);

- Transferring registration, control, or ownership of any aircraft, vessel, or satellite subject to this subchapter by a U.S. Person to a Foreign Person;
- Releasing or otherwise transferring a defense article to an embassy or to any of its agencies or subdivisions, such as a diplomatic mission or consulate, in the United States;
- Performing a defense service on behalf of, or for the benefit of, a Foreign Person, whether in the United States or abroad; or
- The release of previously encrypted technical data as described in 22 CFR §§ 120.56(a)(3) and (4).

Pursuant to 22 CFR § 120.54, the following activities are not Exports, reexports, retransfers, or temporary imports:

- Launching a spacecraft, launch vehicle, payload, or other item into space;
- Transferring Technical data to a U.S. Person in the United States from a person in the United States;
- Transferring within the same Foreign Country Technical Data between or among only U.S. persons, so long as the Transfer does not result in a release to a Foreign Person or Transfer to a person prohibited from receiving the Technical Data;
- Shipping, moving, or Transferring defense articles between or among the United States as defined in 22 CFR § 120.60;
- Sending, taking, or storing Technical Data that is:
 - Unclassified;
 - Secured using end-to-end encryption;
 - Secured using cryptographic modules (hardware or software) compliant with the Federal Information Processing Standards Publication 140-2 (FIPS 140-2) or its successors, supplemented by software implementation, cryptographic key management and other procedures and controls that are in accordance with guidance provided in current U.S. National Institute for Standards and Technology publications, or by other cryptographic means that provide security strength that is at least comparable to the minimum 128 bits of security strength achieved by the Advanced Encryption Standard (AES-128);
 - Not intentionally sent to a person in or stored in a country proscribed in 2 CFR § 126.1 or the Russian Federation; and
 - Not sent from a country proscribed in 22 CFR § 126.1 or the Russian Federation.

Export Administration Regulations mean the regulations set forth in 15 CFR §§ 730 *et seq.*

Export License means an official approval or other authorization granted by an appropriate authorizing Federal Agency to travel, Transfer, or conduct other actions that may otherwise be a violation of federal law.

Externally Funded Research or Sponsored Program means a grant or contract between Lipscomb and an external entity (such as a federal, state or local government, higher education institution, nonprofit organization, or for-profit entity) pursuant to which funding or other resources are provided to Lipscomb for the purpose of completing a specified project or program.

Federal Agency, as defined in 5 U.S.C. § 551(1), generally means each authority of the Government of the United States, whether or not it is within or subject to review by another agency.

Foreign Country, as defined in 31 CFR § 500.301, also includes, without limitation:

- The state and the government of any such territory as well as any political subdivision, agency, or instrumentality thereof or any territory, dependency, colony, protectorate, mandate, dominion possession or place subject to the jurisdiction thereof;
- Any other government (including any political subdivision, agency, or instrumentality thereof) to the extent and only to the extent that such government exercises or claims to exercise control, authority, jurisdiction or sovereignty over territory which constituted such foreign country;
- Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been acting or purporting to act directly or indirectly for the benefit or on behalf of any of the foregoing, and
- Any territory which is controlled or occupied by the military, naval or police forces or other authority of such foreign country.

Foreign Country of Particular Concern, as defined in 15 CFR § 231.102, means:

- A country that is a covered nation (as defined in 10 U.S.C. 4872(d)); and
- Any country that the Secretary of Commerce, in consultation with the Secretary of Defense, the Secretary of State, and the Director of National Intelligence, determines to be engaged in conduct that is detrimental to the national security or foreign policy of the U.S.

These countries may include, without limitation, Burma, People's Republic of China, Cuba, Eritrea, Iran, the Democratic People's Republic of Korea, Nicaragua, Pakistan, Russia, Saudi Arabia, Tajikistan, and Turkmenistan.

Foreign Interest is any foreign government, agency of a foreign government, or representative of a foreign government; any form of business enterprise or legal entity organized, chartered or incorporated under the laws of any country other than the U.S. or its possessions and trust territories, and any person who is not a citizen or national of the United States.

Foreign National means any person who is not a citizen or national of the United States.

Foreign Person means any Foreign Interest, and any U.S. Person effectively controlled by a Foreign Interest.

Fundamental Research, as identified in National Security Decision Directive 189, means basic and applied research in science and engineering, the results of which ordinarily are published and shared broadly within the scientific community, as distinguished from proprietary research and from industrial development, design, production, and product utilization, the results of which ordinarily are restricted for proprietary or national security reasons. Research is not considered Fundamental Research when there are restrictions placed on the outcome of the research or restrictions on methods used during the research.

International Traffic in Arms Regulations mean the regulations set forth in 22 C.F.R. §§ 120 *et seq.*

Institutional Member, as defined in 42 CFR § 93.214, means a person who is employed by, is an agent of, or is affiliated by contract or agreement with Lipscomb. Institutional Members may include, but are not limited to, officials, tenured and untenured faculty, teaching and support staff, researchers, research coordinators, clinical technicians, postdoctoral and other fellows, students, volunteers, agents, and contractors, subcontractors, and subawardees, and their employees.

Research Export Officer has the meaning set forth in 22 CFR § 120.67 for an Empowered Official and shall be Lipscomb's Chief Research Officer (or its equivalent).

Restricted Party Screening means any screening tool, including, without limitation, the U.S. Department of Commerce's Consolidated Screening List and the exclusion records in SAM.gov, used to identify any party restricted from import or Export by the U.S. government.

Special Watch List Country means any country identified by the U.S. Department of State where the government engages in or tolerates severe violations of religious freedom. These countries may include, without limitation, Algeria, Azerbaijan, the Central African Republic, Comoros, and Vietnam.

Technical Data, as defined in 22 CFR § 120.33, means:

- Information, other than software as defined in 22 CFR § 120.40(g), which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance, or modification of defense articles. This includes information in the form of blueprints, drawings, photographs, plans, instructions, or documentation;
- Classified information relating to defense articles and defense services on the U.S. Munitions List and 600-series items controlled by the Commerce Control List;
- Information covered by an invention secrecy order; or
- Software (see 22 CFR § 120.40(g)) directly related to defense articles.

Technical Data does not include information concerning general scientific, mathematical, or engineering principles commonly taught in schools, colleges, and universities, or information in the public domain as defined in 22 CFR § 120.34 or telemetry data as defined in note 3 to Category XV(f) of 22 CFR § 121.1. It also does not include basic marketing information on function or purpose or general system descriptions of defense articles.

Technology means information (whether in tangible or intangible form) necessary for the development, production, use, operation, installation, maintenance, repair, overhaul or refurbishing of an item controlled by the Export Administration Regulations.

Technology Control Plan means a written plan that describes the steps to be taken to control the access and dissemination of export-controlled items, information, materials, technology and/or data in accordance with federal export regulations. Elements of a Technology Control Plan include, without limitation, an identification of the item/technology to be protected, physical security, information security, project personnel requirements, accountability and recordkeeping.

Technology Transfer Control Plan means the procedures, controls, and processes an organization intends to implement to comply with Export License requirements. It helps prevent the unauthorized transfer of information that could be used by a Foreign Country to improve its missile or space launch capabilities.

Transfer, as defined in 31 CFR § 500.324, means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property. Without limitation on the foregoing, Transfer shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit or statement; the appointment of any agent trustee, or other fiduciary; the creation or transfer of any

lien; the issuance, docketing, filing, or the levy of or under any judgment, decree, attachment, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any Foreign Country; the fulfillment of any condition, or the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

U.S.C. means the United States Code.

U.S. Person means a United States citizen, an alien known by the intelligence agency concerned to be a permanent resident alien, an unincorporated association substantially composed of United States citizens or permanent resident aliens, or a corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments.

APPLICABILITY OF THE PROTOCOLS

These protocols apply to any Lipscomb employee or student, whether full- or part-time, conducting or participating in Externally Funded Research or Sponsored Program, or Transferring goods, data, materials, or information to any Foreign National or Foreign Person. These protocols also apply to all subcontractors of Lipscomb with access to research, data, award, participant, or other program information.

PROCEDURES

Compliance with Applicable Law

All Institutional Members engaged in research on behalf of Lipscomb must comply with applicable U.S. export control statutes and regulations, enforcement, and economic sanctions, including, without limitation, the Export Administration Regulations and other regulations administered by the U.S. Department of Commerce, the International Traffic in Arms Regulations and other regulations administered by the U.S. Department of State, and regulations administered by the U.S. Department of Treasury through the Office of Foreign Assets Control (“OFAC”).

To determine if research items, Equipment, Technology, data, or other commodities have or may have limitations on Export or Transfer, Institutional Members engaged in research on behalf of Lipscomb must utilize online databases and resources provided by the federal government. These sources may include, without limitation:

- [Commerce Control List](#);
- OFAC’s [Sanctioned Programs and Country Information](#);
- OFAC’s [Specially Designated Nationals List](#); and
- [United States Munitions List](#).

Fundamental Research Exceptions and Activities Not Considered Exports

Certain exceptions to Export restrictions exist, such as those regarding Fundamental Research set forth in National Security Decision Directive 189, for Institutional Members conducting basic and applied research in science and engineering, the results of which ordinarily are published and shared broadly within the scientific community. Such research may include, without limitation,

publication in open-access journals, public presentations, and online sites in a non-encrypted format with the intent of being in the public domain and without patent, trademark, or other intellectual property controls. In such circumstances, no Export License is typically required to share research results with U.S. Persons. However, exemptions may cease when, for example, research is proprietary, contains any Export-controlled data/information, may impact national security (or defense), involves dual-use technologies (which may also include Dual Use Research of Concern), may be under an award or subaward with restrictions, involves intellectual property, or involves the Transfer of material goods that would require an Export License. Other circumstances may apply and this list not exhaustive. Institutional Members engaged in research on behalf of Lipscomb are encouraged to consult with the Research Export Officer for questions about the Transfer of information intended to comply with the Fundamental Research exceptions.

Research Export Officer

The Research Export Officer will support Lipscomb’s Export Control activities for research activities, whether or not such activities are externally funded. The Research Export Officer is responsible for:

- Maintaining these protocols and any separate Technology Control Plan, and informing Lipscomb’s research community about the protocols and procedures;
- Receiving requests for research and research-related Export Licenses from members of Lipscomb’s research community;
- Approving or denying requests from Institutional Members for Export Licenses and, if approved, applying for such licenses; and
- Responding to issues, concerns, violations, and actions related to research Export control, whether such issues are related to travel or the Transfer of data/information.

The Research Export Officer engages competent third-party contractors and software solutions, supports decision-making, ensures compliance with appropriate regulations, requests Export Licenses, and performs other actions critical to Exports, subject to Lipscomb’s other applicable policies and procedures.

Import/Export of Goods, Services, and Information

The purchase or procurement of Equipment or services from any Foreign Person or Foreign National in support of Externally Funded Research or Sponsored Program requires advance approval from the Research Export Officer and, if applicable, the applicable funding entity or agency prior to Lipscomb’s request for an Export License. Any such purchase or procurement must comply with the terms of 2 CFR § 200.320 unless more strict guidance is provided by the funding agency, Lipscomb, or as otherwise directed by the Research Export Officer. No such purchase or procurement will be approved if Restricted Party Screening results indicate that the Foreign Person or Foreign National is excluded or a risk. For more information, see the section below entitled “Restricted Party Screening and Approval.”

The purchase of goods, services, and information that are not federally restricted or not considered Dual Use Research of Concern and that are manufactured in Foreign Countries and acquired from Lipscomb-approved vendors, including, without limitation, Amazon and Staples, is generally allowable; however, it is the obligation of all Institutional Members engaged in research on behalf of Lipscomb to comply with applicable federal regulations, Lipscomb policies and procedures, and grantor terms and conditions prior to such purchase.

The import, purchase, or acquisition of selected Equipment and technological items, including, without limitation, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities), may be prohibited pursuant to the terms of 2 CFR §§ 200.216(b)(1)-(4). Institutional Members engaged in research on behalf of Lipscomb are encouraged to consult with the Office of Research and Grants prior to seeking the acquisition of such items.

Dual Use Research of Concern

The import or Export of items, in materiel or Transfer of knowledge by Institutional Members, that may constitute a Dual Use Research of Concern (utilized within a small subset of life sciences research) is prohibited without the written approval of the Research Export Officer.

Travel

All Institutional Members engaged in research on behalf of Lipscomb who undertake to travel must comply with applicable policies and procedures, including, without limitation, the Travel Policy.

Expenditures

Institutional Members engaged in research on behalf of Lipscomb and traveling to a Foreign Country must utilize the foreign per diem rates published by the Office of Allowances of the U.S. Department of State for the applicable location(s). These rates must be used to the greatest extent possible in connection with the incurrence or reimbursement of expenses related to lodging, meals, and other incidentals. In addition, such Institutional Members traveling to a Foreign Country must comply with the Travel, Entertainment, and Expense Reporting Policy.

Fly American

Pursuant to the Fly America Act, all Institutional Members travelling to a Foreign Country in connection with Externally Funded Research or Sponsored Program must utilize a U.S. flag air carrier for all federally funded air travel. A complete certified air carriers list is provided online by the U.S. Department of Transportation and typically includes major airlines such as American Airlines, Delta Airlines, JetBlue Airways, Southwest Airlines, United Airlines, and U.S. Airways. If the Externally Funded Research or Sponsored Program is funded by the U.S. Department of Defense, there shall be no exception to this requirement. If such research is funded by any other Federal Agency, exceptions to this requirement may be approved by the Research Export Officer only in the following circumstances:

- A U.S. air carrier is not available;
- A U.S. carrier service would extend the travel time by 24 hours or more;
- A U.S. carrier does not offer a nonstop or direct flight between the origin and destination, and using a U.S. carrier:
 - Increases the number of aircraft changes outside the United States by two or more;
 - Extends travel time by six hours or more; or
 - Requires a connecting time of four hours or more at an overseas interchange point;
- The flight time from origin to destination is less than three hours and using a U.S. flag carrier doubles the flight time; or

- There is an applicable Open Skies Agreement in effect between the U.S. government and the government of the Foreign Country that meets the requirements of the Fly America Act.

Effective Control

Any technology device, such as a laptop, tablet or other hardware, that is owned by Lipscomb, as well as personal computing devices with research data, should remain under the effective control of the applicable Institutional Member during any travel. Should any such device, data, or research be confiscated for any period of time during travel, including at an airport, the applicable Institutional Member should promptly disclose the adverse event to the Research Export Officer.

Temporary Email Address and Use of VPN

Depending on the location, duration, and risks of travel, Lipscomb's Office of Information Technology might create a temporary email address for use during travel to a Foreign Country. All Institutional Members accessing Lipscomb resources during travel to a Foreign Country should utilize a Lipscomb-approved virtual private network ("VPN") for protection, if use of a VPN is allowable in the Foreign Country. If VPN usage is not allowable in the Foreign Country, access to online Lipscomb resources and use of any Lipscomb hardware will require advance approval.

Transfer of Data, Knowledge, Information, and/or Intellectual Property

Export License

Export of goods, data, knowledge, information, intellectual property, Technology, and other data (as governed by federal regulations) may only be conducted after Lipscomb and the applicable researcher(s) have obtained an Export License. Such goods, data, knowledge, information, intellectual property, Technology, and other data may be in tangible form (such as a model, prototype, blueprint, photograph, plan, instruction, or an operating manual), or may be intangible, such as a technical service, or oral, auditory, or visual descriptions. The applicable researcher(s) must submit a request to the Research Export Officer for pre-approval of an Export License, and the Research Export Officer shall, if approved, work with the researcher(s) to request a license through the appropriate Federal Agency. Requests for an Export License may require up to six months or more and require careful review of facts surrounding Export transactions.

Restrictions

No employee or student may travel to or Transfer data, including research data, to any entity, Foreign National, Foreign Person, or country which may be an Entity of Particular Concern, Special Watch List Country, or Foreign Country of Particular Concern. This includes travel and Transfer to persons or entities from such countries that may be temporarily located in the United States. Any exceptions to this requirement must be approved in advance by the Research Export Officer.

Labeling of Work Products

All printed and electronic/digital documents generated under an Export License that contain Export-controlled Technical Data shall be clearly marked with an Export control warning. Unless otherwise directed, the warning shall state as follows:

EXPORT CONTROL WARNING: This document contains technical data the export of which is or may be restricted by the [INSERT AGENCY] under [INSERT REGULATIONS] and other U.S. export control regulations. This document is disseminated according to the policies, protocols, and procedures of Lipscomb University [and/or Lipscomb University's Export License INSERT NUMBER]. Violations of U.S. export laws are subject to severe criminal penalties.

Restricted Party Screening and Approval

To ensure consistency and validity, the Research Export Officer will utilize the [Consolidated Screening List Search Engine](#) available on the trade.gov website, and the exclusion list within the sam.gov website to conduct Restricted Party Screenings of persons and entities prior to any Institutional Members engaging in research on behalf of Lipscomb undertaking travel, financial, research, or sponsored program relationships with such persons or entities. The Research Export Officer may also rely on information provided by the U.S. Bureau of Consular Affairs, travel advisories issued by the U.S. Department of State, information made available by other Federal Agencies or funding entities, or other public notices in its decision-making process. The determination of approval, conditional approval, or denial made by the Research Export Officer shall be final. An appeal of any such determination may be made based on updated Restricted Party Screening results or if a public notice is made by a Federal Agency responsible for Export regulations.

Responsibilities

Institutional Members engaged in research on behalf of Lipscomb must:

- Disclose to and request advance approval from the Research Export Officer for the procurement of goods or services from a Foreign Person or Foreign National, travel to a Foreign Country, or the Transfer of data, materials or information;
- Work collaboratively with the Research Export Officer in the request for any Export License necessary for the conduct of research;
- Disclose the occurrence of any adverse events during or after travel to a Foreign Country; and
- Ensure all students, participants, and others engaged in the research have the resources, policies, and training about Export restrictions to ensure ongoing compliance.

The Office of Research and Grants must:

- Conduct Restricted Party Screenings using appropriate screening tools;
- Assist principal investigators in developing data management plans, Technology Control Plans, Technology Transfer Control Plans, and other documents required in connection with Externally Funded Research or Sponsored Program;
- Notify the Research Export Officer at the pre-award stage of travel to a Foreign Country or Transfer that is identified in a proposal or budget;
- Notify the Research Export Officer, Business Office and Finance Department in the event that Restricted Party Screening results reflect a potential adverse impact on research or the Lipscomb community; and
- Retain all Export records for a minimum of five years after completion of the corresponding travel, Transfer, or other activity, or longer if required by the terms and conditions of Externally Funded Research or Sponsored Program. Such records may include, without limitation, evidence of Restricted Party Screenings, submission of requests for Export Licenses, granted Export Licenses, travel records, purchasing/procurement records, and correspondence from research funding agencies or entities.

Export Disclosure

Institutional Members engaged in research on behalf of Lipscomb must, without exception, notify the Research Export Officer regarding any proposed, intended, planned, or subsequent disclosure of any Export or deemed Export occurring in any Externally Funded Research or Sponsored Program. Such a disclosure shall include, without limitation:

- *Goods and Services*: The import, purchase, or acquisition of goods or services from any non-U.S. source, as well as the Export of goods or services from Lipscomb to any Foreign Person or Foreign National;
- *Travel*: Travel to and/or from any Foreign Country; and
- *Transfer of Knowledge and Data Transfer*: The exchange of data, in any form (including electronic means), which extends beyond the definition of Fundamental Research, whether or not the receiving Foreign Person or Foreign National is located in the United States.

Consequences for Non-Compliance

Consequences for non-compliance with the terms of these protocols may be severe and may impact the affected Institutional Member, grant award, Externally Funded Research or Sponsored Program, Office of Research and Grants, Lipscomb, and the national security or defense of the United States. Consequences may include, without limitation, denial of Export privileges, debarment or suspension (permanent or temporary) from government contracting, the assignment of independent monitors, the blocking of assets, costs for investigation and legal services, and other collateral penalties. Under the International Traffic in Arms Regulations and the Export Administration Regulations, criminal penalties for individuals may be up to \$1 million for each violation and up to 20 years (under the Export Administration Regulations) or 10 years (under the International Traffic in Arms Regulations) in prison.

Reporting Violations

Any person who is aware of any violation of Export regulations, deemed Exports related to Lipscomb, or the terms of these protocols should notify the Research Export Officer.

Conflict

These protocols are subject to applicable law. In the event of a conflict between the provisions of these protocols and applicable law, including, without limitation, 15 CFR § 730 *et seq.* and 22 U.S.C 2778, the provisions of applicable law shall control.

RELATED DOCUMENTS/POLICIES

Travel Policy
Travel, Entertainment, and Expense Reporting Policy

CONTACT

For additional information or questions regarding these protocols, contact the Office of Research and Grants, which can be reached at 615.966.5907 or researchandgrants@lipscomb.edu.

EFFECTIVE DATE

These protocols were approved by the Associate Provost for Research and Graduate Studies and Provost on January 17, 2025.