

EXPORT CONTROL PLAN

(General Technology Control Plan)

For

SOUTHERN RESEARCH

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Summary of Changes Version 4.0

Section 1.3 Updated Responsibilities to include new committee members.

Section 2.1 Added clarifying information to the definition of Technical Assistance and Technical Data

Section 2.2 Updated to include a reference to Department of Energy export control regulations and a definition of reexport.

Section 2.6 Updated to reflect extensive changes to current IT controls.

Section 2.11 Added an explanation of the two phase training approach.

Section 3.3 Added description of dynamic screening and evaluation of potential hits.

Section 3.3.1 Added a statement that before hiring non-U.S. persons the hiring manager should contact the ECS to determine if a license is required.

Section 3.10 and 3.11 Added reference to the guidance documents for ITAR and EAR

Section 3.13 Clarified when controlled exports may leave company premises.

Section 3.14 Clarified who will submit the reports to Department of Census.

Removed "Institute" from the company's name throughout document, according to branding guidelines.

Figure 1 Updated organizational chart

Appendix 2 Updated Contacts list

1.0 INTRODUCTION

1.1 Purpose

It is the purpose of this Export Control Plan (ECP) to outline the processes and procedures to follow when items, software and technology created by Southern Research personnel are disseminated to non-U.S. persons either inside or outside of the United States.

1.2 Policy (Policy and Procedures Manual, Topic 135)

It is the policy of Southern Research to fully comply with all applicable federal statutes, executive orders, regulations, and contractual requirements for the safeguarding of controlled commodities or technical information in its possession. This includes full and total compliance with export control regulations.

In general, export controlled information means activities, items, information or materials related to the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, operation, modification, demilitarization, destruction, processing, and use of items with a capacity for military application utility, or any information relating to a contract with dissemination restrictions. In these latter cases, it does not matter if the actual intended end use of export controlled information is military or civil in nature.

Export controlled information does not include basic marketing information on function or purpose; general system descriptions; or information concerning general scientific, mathematical, or engineering principles commonly taught in schools, colleges and universities or information in the public domain.

Under no circumstances shall employees or other persons associated with Southern Research (e.g. students, visiting scientists, etc.) engage in activities in contravention of U.S. export control laws. The organization's ECP will serve to demonstrate the appropriate level of security for controlled technologies as it pertains to export control requirements. Employees found to be in willful, intentional violation of these directives or the provisions of the ECP shall be subject to disciplinary actions, up to and including termination of employment. Such violations can also earn civil and/or criminal penalties for Southern Research and/or the individual making the disclosure.

It is unlawful under the export regulations to send or take export controlled information out of the U.S., or to disclose such information, orally or visually, or to transfer export controlled information to a non-U.S. person inside or outside the U.S. without proper authorization. A license may be required for non-U.S. persons to access export controlled information. A non-U.S. person is defined as an individual who is not:

- a U.S. citizen or permanent resident alien (green card);
- a documented refugee residing in the U.S. as a protected political asylee or under amnesty.

The law makes no exceptions for foreign students.

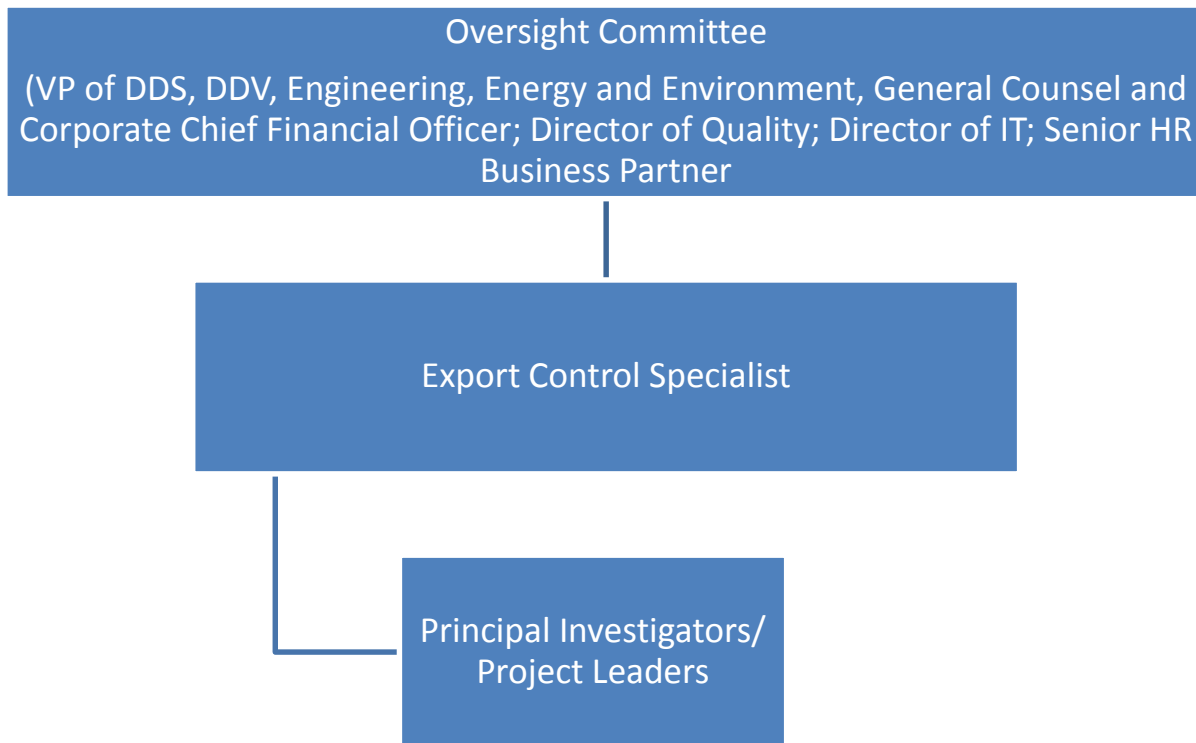
1.3 Responsibilities

Administration of this export control plan is the responsibility of the Export Control Specialist, who is designated as Southern Research's empowered official as specified in the International Traffic in Arms Regulations (ITAR), 22 CFR section 120.25. Senior staff responsible for the overall program review and supporting the implementation of this plan make up an oversight committee that is composed of the Vice President of Engineering, Vice President of Energy and Environment, Vice President of Drug Discovery, Vice President of Drug Development, Vice President Chief Financial Officer (CFO), Vice President General Counsel, Director of Quality, Director of Information Technology, and Senior HR Business Partner. The designated senior company officer for the purpose of signing the Statement of Registration for ITAR registration and for designating the Empowered Official is the CFO, (22CFR 122.2). The Export Control Specialist (ECS) is responsible for creating and maintaining the appropriate export control documentation and records in compliance with this plan, assisting with classification of export controlled materials, and for providing appropriate training and instruction on export control subjects to affected persons. For the purposes of making license applications to the Bureau of Industry and Security (BIS) for the Export Administration Regulations (EAR) or to the Directorate of Defense Trade Controls (DDTC) for ITAR the account administrator will be the ECS. See [Appendix 2 Contact Information](#) for the current holders of these positions.

Principal Investigators (PI)/Project Leaders (PL) involved in research and services are ultimately responsible for; the proper handling of controlled materials under the EAR and ITAR, and for ensuring that all personnel involved with projects conducted under their supervision are properly instructed in the handling of controlled materials, and for compliance with all export control laws and regulations.

All employees are responsible for adhering to export control requirements of projects dealing with controlled items.

Figure 1. Organizational Chart



2.0 OVERVIEW

2.1 Definitions

Account Administrator – Institute official who has the authority to make license applications for EAR using the SNAP-R program and designating other authorized users for the SNAP-R program.

Commerce Control List (CCL) – The list, organized by Export Control Classification Number (ECCN), of items controlled under the EAR. The CCL is set forth at Supplement No. 1 to part 774 of the EAR, 15 CFR.

Controlled Materials – Defense articles, defense services, technology, technical data, software, source code and any other items that are subject to export licensing (including “deemed export” licensing and Technical Assistance Agreement (TAA) authorization) under the EAR or ITAR in a specific instance or under a specific program.

Defense Article – Any item or technical data designated on the U.S. Munitions List; 22CFR part 121.1. An article may be designated or determined in the future to be a defense article if it (part 120.3, 120.9):

- a. Is specifically designed, developed, configured, adapted or modified for a military application, and (i) does not have prominent civil application, and (ii) does not have performance equivalent to those of an article used for civil applications; or
- b. Is specifically designed, developed, configured, adapted or modified for a military application and has significant military or intelligence applicability such that control is necessary.

Defense Service – 22CFR part 120.9 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.

Deemed Export – Transfer to a foreign person, in or out of the U.S., of export-controlled material, technical data or knowledge in any manner is deemed to be an export to that individual's country.

Dual Use – Items that have both commercial and military or proliferation applications.

Empowered Official – ITAR 22CFR 120.25 A U.S. person who is directly employed by the applicant having authority for policy or management within the organization and is legally empowered in writing by the applicant to sign license applications and other requests for approval for the applicant and understands the provisions and requirements of the export statutes and regulations. That person or persons has independent authority to inquire into any aspect of the export transaction, verify the legality of the transaction and refuse to sign the license application for approval without prejudice or adverse recourse.

Export – EAR definition:

- a. An actual shipment or transmission of items subject to the EAR out of the U.S., or
- b. Any release of technology or software subject to the EAR in a foreign country, or
- c. Any release of technology or source code subject to the EAR to a foreign person.

Export – ITAR definition:

- a. Sending or taking a defense article out of the United States in any manner, except by mere travel outside of the U.S. by a person whose personal knowledge includes technical data
- b. Disclosing (including oral or visual disclosure) or transferring technical data to a foreign person, whether in the U.S. or abroad
- c. Performing a defense service on behalf of, or for the benefit of, a foreign person, whether in the U.S. or abroad

Foreign Person – Any person who is not a U.S. citizen or lawful permanent resident as defined by 8 U.S.C. 1101(a)(20)1 or who is not a protected individual as defined by 8 U.S.C. 1324b(a)(3)2. It also means any foreign corporation, business association, partnership, trust, society or any other entity or group that is not incorporated or organized to do business in the United States, as well as international organizations, foreign governments and any agency or

subdivision of foreign governments.

Fundamental Research – 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.

Manufacturing License Agreement– An agreement whereby a U.S. person grants a foreign person an authorization to manufacture defense articles and involves or contemplates: a. the export of technical data or defense articles or the performance of a defense service; or b. the use by the foreign person of technical data or defense articles previously exported by the U.S. person.

Non-U.S. Person – (see foreign person)

Reexport – An actual shipment or transmission of items subject to the EAR from one foreign country to another foreign country. For the purposes of the EAR, the export or reexport of items subject to the EAR that will transit through a country or countries are deemed to be exports to the new country.

Schedule B Number – A commodity number appearing in the current edition of the Bureau of the Census publication, Schedule B Statistical Classification of Domestic and Foreign Commodities exported from the United States.

Technical Assistance – Transfer of technical data in forms such as instruction, skills, training, working knowledge or consulting.

Technical Assistance Agreement -An agreement for the performance of a defense service and/or the disclosure of technical data to non-U.S. persons.

Technology/ Technical Data – EAR definition: Specific information necessary for the “development”, “production”, or “use” of a product. The information takes the form of “technical data” or “technical assistance” and may be in the form of blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals and instructions written or recorded on other media or devices such as disk, tape, read-only memories.

Technical Data – ITAR definition: Information other than software 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.

Temporary Exports – An EAR license exception for export of items for temporary use abroad, with conditions and restrictions, of U.S. persons or their employees traveling or temporarily assigned for less than one year.

U.S. Person – For purposes of export compliance: a citizen of the United States of America, permanent resident of the United States of America (green card holder) or a protected individual as defined by 8 U.S.C. 1324b(a)(3)2. Also includes any corporation, business association, partnership, society, trust, or any other entity that is incorporated to do business in the U.S.A.

2.2 Covered Export Transactions

This Export Control Plan is applicable to all transactions that are subject to the three principal agencies that regulate exports from the United States. The U.S. Department of State Directorate of Defense Trade Controls (DDTC) administers export control of defense articles and services in accordance with 22 U.S.C. 2778-2780 of the Arms Export Control Act (AECA) (1976) as defined by the International Traffic in Arms Regulations (ITAR) (22CFR 120-130). The U.S. Department of Commerce Bureau of Industry and Security (BIS) administers export control of most other commercial items especially “dual-use” technology as defined by the Export Administration Regulations (EAR) (15CFR 730-774) under the authority of the Export Administration Act of 1979. The U.S. Department of the Treasury Office of Foreign Assets Control (OFAC) administers and enforces economic and trade sanctions against embargoed countries and designated entities. The Department of Energy (DOE) also has a part in export control by controlling exports of atomic energy activities to foreign entities (10 CFR Part 810).

The term “export” is broadly defined by these regulations as items, software or technology with military or dual-use applications transferred to foreign persons inside or outside of the United States. Dual-use applications are those with both military and civilian uses; however purely commercial items are also subject to the EAR. Transfer could be by physical, visual, or aural means. Reexports are items subject to the EAR and are shipped from one foreign country to another foreign country.

Export of classified material or data is also controlled by this document through the ITAR regulations. Any distribution of classified material or data is also controlled by the National Industrial Security Program Operating Manual (NISPOM) as described in the Special Practices and Procedures manual of the Government Security Office and ITAR.

All tangible items are controlled for export; however, not all items require a license to export. Not all technical information is controlled for export. Information not controlled for export includes: public domain information, business terms and conditions, financial information, schedules, delivery data, sales and cost information, general scientific or engineering principles, basic marketing information and general systems information; however the definition of basic and general for the last two is subject to interpretation and may not qualify for the exemption.

2.3 Deemed Exports

Deemed exports are exports in which no physical item is transferred but in which the technology or data behind an item is transferred to a non-U.S. person and that information is “deemed” to be exported to that person’s country of citizenship. Because very little of our research is actually

shipped outside of this country, deemed exports may be our greatest risk of violating the EAR or ITAR standards.

2.4 Fundamental Research

Both ITAR and EAR provide that information published and generally accessible to the public is not subject to export controls (EAR: 15 CFR 734.8; ITAR 22 CFR 120.11). The definition of fundamental research is very specific in these regulations and limits its use as an exemption to export control regulations. Research is not fundamental research if the sponsor restricts the publication of the data resulting from the research unless the limitation is for a review of manuscripts before publication to ensure that no sponsor provided proprietary or patent information is released. Institute sponsored research may be considered fundamental research if the results are not restricted for publication. Governmental or privately sponsored research that restricts access to U.S. persons cannot be classified as fundamental research and export controls may apply.

If research is funded by the U.S. Government, and specific national security controls are agreed on to protect information resulting from the research, ITAR regulations will not apply that might violate those controls. Examples of “specific national security controls” include requirements for prepublication review by the Government, with right to withhold permission for publication; restrictions on prepublication dissemination of information to non-U.S. citizens or other categories of persons; or restrictions on participation of non-U.S. citizens or other categories of persons in the research. A general reference to export control laws or regulations or reminder that the Government retains the right to classify is not a “specific national security control”. (EAR part 734.11.a, b)

2.5 Violations and Penalties

Failure to adhere to export regulations could result in criminal and civil penalties to both the individual and Southern Research. The penalty for unlawful export or disclosure of export controlled information under ITAR is a fine of up to \$1,000,000 and up to 10 years in prison for each violation and loss of exporting privileges for the company for up to five years.

The penalty for unlawful export or disclosure under EAR for the company is the greater of \$5,000,000 or ten times the value of the export. For the individual the fine could be up to \$1,000,000 and up to 10 years imprisonment for each violation.

In addition to monetary fines an entity convicted of violating the ITAR can lose security clearances and be suspended from participating in export of defense articles.

2.6 Information Security Controls

Southern Research has implemented the following controls to protect export-controlled information:

1. Only company owned equipment is allowed to connect to Southern Research's systems and networks.
2. Computer equipment and Mobile Devices containing export-controlled software or information:
 - a. May not be left unattended or unsupervised.
 - b. Must be "locked", i.e. password protected, when not in use.
 - c. Must be reported immediately to IT and the Export Compliance Office as having been lost or stolen.
 - d. Must be configured with no more than 15 minutes of idle time required before suspending a session. User name and password must be required to enable the session.
 - e. Must have Antivirus software and up-to-date virus definitions.
3. The disposal of any physical devices and material such as compact disks, jump drives, portable digital media devices and papers that contain controlled technical materials will be coordinated with the Government Security Office.
4. Company owned computers or other electronic storage devices containing export controlled information must not be used during international travel. If such a device is required a "scrubbed" computer will be provided by Southern Research's IT department.
5. Export controlled information must not be posted in files on network drives with uncontrolled shared access.
6. The protection of controlled information on classified computers falls under the protection requirements of the NISPOM and is controlled by the Government Security Office.

2.7 Physical Security Plan

Southern Research provides physical security controls consistent with the classification of the material.

Classified work areas are protected in accordance with the guidelines of the NISPOM as specified in the Special Practices and Procedures Manual. This plan incorporates protective measures such as physical security, access controls, and visitor controls to areas housing classified work.

Unclassified export controlled information or materials will be protected in accordance with the guidelines of this ECP. Physical access to export controlled materials or information will be limited by various means depending upon the type of controls necessary to ensure that non-U.S. persons without a license will not have access.

Southern Research Physical Security controls includes:

1. A security force that cover 24 hours a day, 7 days a week.

2. Digital camera and surveillance system
3. Access controls including
 - a. Badge and ID system
 - b. Visitor's Policy
 - c. Key Control Program
 - d. Proximity Card Controlled Access
4. Perimeter Controls
5. Letters of Agreement with FBI and Local Law Enforcement Agencies
6. Emergency Action Plans
7. Annual Physical Vulnerability Assessments

Principal Investigators/Project Leaders must ensure that all employees working on controlled material projects are aware of the distribution limitations of those items and determine if any additional physical security measures are appropriate for their work. If a license is required to release information to non-U.S. persons the Principal Investigator/Project Leader must ensure that no controlled information is transmitted before the license is obtained from the Department of State or Commerce.

2.8 Visitor Control Plan

Visitors to Southern Research facilities must also adhere to the controls put into place by this ECP. [Southern Research Visitor Policy 1009](#) explains the visitor policy and describes the procedures to be followed by visitors to gain access to any areas of Southern Research.

All visiting persons are subject to the same random inspections as all other persons entering and leaving a secure facility.

Non-U.S. person visitors that are unescorted and will be allowed access to export controlled material or technology will be required to sign a non-disclosure agreement ([Exp Form 3](#))

2.9 Controlled Imports

Some items on the ITAR United States Munitions List (USML) are also controlled for import into the U.S. If the import is temporary and the item is on the USML, ITAR applies and its importation is under the direction of the Department of State. If the import is permanent its importation is controlled by the Bureau of Alcohol, Tobacco and Firearms, 27 CFR part 447, and a separate U.S. Munitions Import List (USMIL) applies (section 447.21). Principal Investigator's/ Project Leader's seeking to import an item on the USML should contact the Export Control Specialist for assistance.

2.10 Antiboycott Provisions of EAR

The antiboycott provisions of the EAR (Part 760) prohibit U.S. persons from taking certain actions with intent to comply with, further or support unsanctioned foreign boycotts, including furnishing information about business relationships with or in a boycotted country or with blacklisted persons. In addition, the EAR requires that persons report their receipt of certain

boycott requests to the Department of Commerce. Any requests of this type from clients or potential clients must not be answered and must be forwarded to the Export Control Specialist who will submit them to the Bureau of Industry and Security.

2.11 Training

The Export Control Specialist will develop training for all Southern Research employees to ensure compliance with this ECP. There will be a two phase approach to training. All employees will be assigned Export Control Awareness Training when they are hired which may be periodically reassigned. In addition Principal Investigators, Certified Shippers, and Managers will receive additional training for categorization of projects and proper documentation of such in an Advanced Export Control Training. Principal Investigators must ensure that anyone having access to export controlled items or data be aware of the requirements in this ECP. Well-informed employees minimize the likelihood that inadvertent violations will occur. The highest risk of non-compliance of export control regulations occurs during casual conversations in person, on the telephone or email with non-cleared persons. Other entities may also be included in training that participate in the compliance of export control procedures such as Business Development, Contracts, Human Resources, Intellectual Property, Information Technology, Security or Sourcing. Training for Principal Investigators may be dynamic or on-line as the situation requires and will be conducted annually to ensure the latest information is known.

The Principal Investigator with export controlled projects is responsible for ensuring all new project participants have reviewed the ECP before allowing access to export controlled items or data.

Supervisory personnel having responsibility for foreign persons will be briefed in the definitions of fundamental research, educational information, public domain, export control and export licensing, as set forth in the guidelines provided by the specific government agency (EAR, ITAR, or other U.S. agencies).

3.0 PROCEDURES

3.1 Principal Investigator / Project Leader Duties

Each project (external or internal) will be evaluated by the Principal Investigator / Project Leader, with assistance by the Export Control Specialist if necessary, to determine if any export control issues apply prior to initiating a proposal or contract. The evaluation of externally funded projects will be documented on the Export Control Review and Certification form ([Exp Form 1](#)). For evaluation of internally funded fundamental research projects, the Exp Form 1 may be used or the responsible VP may make a statement on the project approval memo to Contracts, that the project is fundamental research and not subject to export control restrictions. For all activities not

designated as fundamental research, the PI/PL will be responsible for ensuring that all U.S. persons, non-U.S. persons and visitors are informed of and aware of the following concerning export controlled materials or information:

1. That technical data, products or defense services that require an export authorization are not transmitted, shipped, mailed (or any other means of transmission) unless an export authorization has already been obtained and the transmission procedures follow U.S. Government regulations. (Note: export licenses can take an average of 60 days for approval.)
2. That individuals are cognizant of all regulations concerning the handling and safeguarding of all information (classified, controlled unclassified, company proprietary, or client proprietary) contained in this ECP.
3. That employees with access to the project have completed Export Control Awareness Training which incorporates a non-disclosure statement. By completing the course the employee attests to being trained and agrees to comply with the export control regulations.
4. That visitors that require vetting (Section 3.3.6) have executed a Non-Disclosure Statement ([Exp Form 3](#)) if required.
5. That U.S. persons are knowledgeable of the information that can be disclosed or accessed by non-U.S. persons.
6. That controlled technical data is marked to prevent unauthorized disclosure.
7. That sanctions imposed by Southern Research for deliberate violations of EAR and ITAR export procedures could be up to and include termination of employment.

Additionally, PI's/PL's may be required to evaluate prospective work concerning export control issues prior to proposal generation. The Intellectual Property (IP) request forms for Confidential Disclosure Agreements (CDA), Material Transfer Agreements (MTA), and Teaming Agreements (TA) have language to ensure that PI's/PL's address any export control issues before a CDA, MTA or TA is issued.

3.2 Export Control Analysis

Principal Investigators must begin considering export control issues whenever a potential new project is anticipated. An in-depth export control analysis must be completed before a CDA, MTA, TA, proposal, or contract is signed or changes to the scope of an existing project are made to ensure that any export control issues are addressed before export compliance violations occur. These analyses must be documented on the Export Control Review and Certification form ([Exp Form 1](#)) and a copy must be provided to the Export Control Specialist for filing.

Items to be addressed in the export analysis include but are not limited to fundamental research determination, publication restrictions, restriction to U.S. persons, categorization of exported items, end use, end user, and any exports to foreign entities.

License determinations are not always straightforward, especially for a contract research organization. Items that Southern Research employees work on and their categorization are usually not clearly listed on the EAR Commerce Control List or the ITAR United States Munitions List. An [EAR/ITAR Decision Tree \(Appendix 3\)](#) and a [“Subject to EAR?” \(Appendix 4\)](#) questionnaire have been developed to assist the PI/PL in determining if their work is controlled and by which agency. The Export Control Specialist will also provide assistance in this very critical first step in determining the appropriate control measures that will be needed. If this step is incorrect all additional steps will probably be incorrect.

3.3 Visual Compliance Screening of Persons and Entities for Denied Status

Only U.S. Persons may have access to export controlled information without a license or license exemption. Federal law requires that businesses do not undertake business dealings with an individual or entity listed on the Office of Foreign Asset Control (OFAC) Specially Designated Nationals (SDN) and Blocked Persons List. Other lists that must be referenced with regard to prohibited exports include the Denied Persons List, Entity List, Unverified List, Debarred Parties List and others. These lists includes known terrorist, terrorist supporters, international narcotics traffickers and those engaged in activities related to proliferation of weapons of mass destruction and are persons or entities with which U.S. companies may be restricted from doing business.

For any visitor that is required to be vetted, the Southern Research host is responsible for submitting the name and citizenship of the individual to the export control specialist or designee before the visit takes place.

Southern Research will utilize a web-based search program called Visual Compliance for vetting of persons associated with Southern Research. The Visual Compliance program searches all the lists produced by U.S. government agencies for banned or restricted persons, organizations or countries. Any potential “hits” in Visual Compliance will result in further investigation to determine if the hits are accurate for the specific person or entity in question and if the transaction can occur without a license or are “false positives”. The investigation will be documented and the records retained according to the record keeping practices stated in [section 3.18](#). In addition to the primary screening, the Visual Compliance program re-screens all entities/persons in the SR database daily through its Dynamic Screening program, and notifies the administrators if a particular entity’s status has changed. Potential “hits” are evaluated for relevance and the ECS will notify appropriate individuals/departments of any “true matches” in order to determine the appropriate response, e.g. placing a hold on a contract or limiting a person’s access to controlled material. Southern Research will vet individuals and companies as follows.

3.3.1 New employees. When a contingent offer is made to a potential employee the person will be vetted. When attempting to hire non-U.S. persons the hiring manager should contact the ESC to be made aware of any potential export control issues associated with that hire.

3.3.2 Current employees will be vetted as necessary to fulfill program requirements.

3.3.3 Vendors. All vendors on the Approved Vendors List will be vetted. Before an order is submitted to a new vendor, the vendor will be vetted. The Sourcing Department will be responsible for having all vendors vetted.

3.3.4 Clients. All potential clients and the companies they represent will be vetted before a proposal is submitted to the client. Clients exempted from this requirement are U.S. Government entities, i.e. DoD, DoE, NASA, DHS, NIH, etc. Contractors of those entities are not exempted.

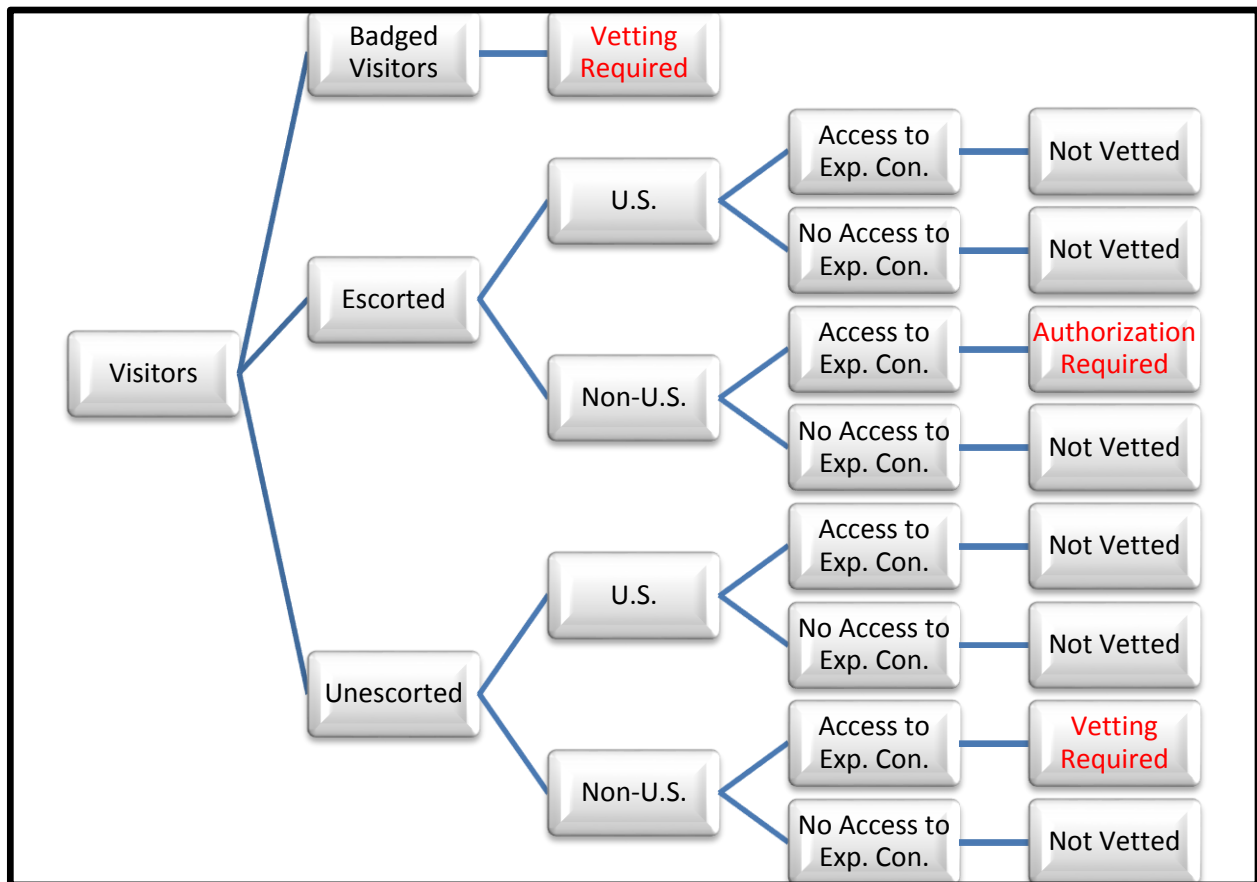
3.3.5 Contractors. Contractors providing a service to Southern Research will be vetted as vendors according to the procedures outlined in 3.3.3 above and the employees of that company on site will be treated as visitors according to section 3.3.6.

3.3.6 Visitors. Visitors (all non-employees) will be divided into two categories; escorted and unescorted. Escorted visitors will not be vetted unless required by contract or departmental policy. Each department with a policy for vetting should have it written and ensure that all hosts are aware of it. The Southern Research employee host will ensure that no export controlled information is accessible to a non-U.S. person visitor without the proper authorization or exemption from the Department of Commerce or Department of State.

Unescorted visitors are further subdivided into citizenship and those with access to export controlled material or not. Unescorted non-U.S. person visitors with access to export controlled material, equipment, data, networks, etc. or labs and offices in which those items reside will be vetted. Unescorted non-U.S. person visitors without potential access to export controlled material in any manner will not be vetted. Unescorted U.S. person visitors will not be vetted.

Any visitor assigned a badge with electronic access will be vetted. For any person required to be vetted the Southern Research host will be responsible for submitting the following to the Export Control Specialist, or designee, as soon as possible prior to the visit for vetting; the complete name (first, middle, last) and citizenship of the person, the company they represent, and the country of incorporation of the company.

The Engineering Research Center (ERC) has special requirements for all Non-U.S. Citizens and visits must be coordinated with the Government Security Office prior to their arrival at Southern Research. Other areas of Southern Research may require similar restrictions depending on the work being performed at the time.

Visitor Summary Chart:**3.4 Nondisclosure Statement and Acknowledgement**

All employees of Southern Research will be required to acknowledge training and document their consent to SR export control policy during initial awareness training. Visitors for which Visual Compliance vetting is required will sign an export control nondisclosure form, ([Exp Form 3](#)).

The nondisclosure statement signed by non-U.S. persons to whom technical data will be disclosed under license by DDTC will be forwarded to DDTC, noting the referenced license number. The Export Control Specialist will forward the statement to DDTC.

3.5 Marking of Technical Data

All export controlled technical data, including electronic data, will be clearly marked to identify

it from other non-controlled data. Clear, specific identification of what is export controlled and what is not is critical when determining what protective measures are applicable.

All DOD related export controlled technical data reports must be marked in accordance with the current destination control statement as found in DoD directive 5230.25. This document establishes policy, prescribes procedures, and assigns responsibilities for the dissemination and withholding of unclassified technical data.

All domestic commercial technical data reports containing ITAR or EAR controlled data (except EAR99 data) should have the appropriate destination control statement on the front cover of the report.

Any export controlled technical data that is exported must be marked with the appropriate destination control statement from the agency that is controlling it. (See the SRInsider Export Control webpage for the current version of the destination control statement).

3.6 International Travel

Any export controlled information must be pre-authorized and documented by the Principal Investigator/Project Leader for the particular destination and end use. Southern Research Institute owned computers or other electronic storage devices containing restricted information or programs must not be used during international travel. If such a device is required a “scrubbed” computer will be provided by IT.

3.7 Specific Technology Control Plan

In addition to this ECP/General Technology Control Plan a project specific technology control plan may be required for export controlled projects that require controls in addition to routine controls. The following situations may require a project specific technology control plan: projects enlisting persons for whom a license is required; projects for exports of controlled technology or materials; projects in areas other than the Engineering Research Center (ERC) that don't routinely participate in export controlled projects; e.g. the Infectious Disease Research Facility (MD), the Advanced Energy & Transportation Technologies Center (NC) or the Corporate Offices (AL). The specific technology control plan may include items such as physical access control measures, and identification and marking of the controlled items/technology and a list of persons with access to the controlled material. A template for a specific technology control plan is available on SRInsider/Regulatory Compliance/Export Control ([Exp Form 4](#)).

3.8 I-129 Certifications

For all I-129 applications, Petition for a Nonimmigrant Worker, Southern Research will comply with the guidelines of the United States Citizenship and Immigrations Service (USCIS). For the purpose of sponsorship of a nonimmigrant, the Human Resources Department (HR) will file form I-129 with USCIS, along with the appropriate documents and filing fee. Designated HR representatives will notify the hiring department of the I-129 requirements and request that the department send the Export Control Review Forms, for the projects which the applicant will

have access, to the Export Control Specialist (ECS). In addition, the HR representative will provide pertinent information to the ECS regarding the new hire. The ECS will review the Export Control Review forms and employee information, as well as conduct any additional investigations necessary to assess whether an export license is required for the new hire. After review, the ECS will notify the HR representative regarding the “Certification for the Release of Controlled Technology or Technical Data to Foreign Persons in the United States” set forth in Part 6 of USCIS Form I-129 (a license is required or a license is not required). Approval must be granted by the Export Control Specialist before submitting the Form I-129.

3.9 DDTC Registration

All U.S. persons engaged in the manufacturing or exporting of defense articles, technical defense information, or defense services are required to register with the Department of State Directorate of Defense Trade Controls (DDTC). Registration is a precondition to approval of any license application, and the registration number must be included on all correspondence and application forms. Southern Research is registered with DDTC in accordance with 22 CFR section 122.2 of ITAR.

3.10 Electronic Submissions to the Department of State

DTrade is a fully-electronic defense export licensing system provided by the Directorate of Defense Trade Controls (DDTC) under the Department of State. Any U.S. person who is a defense trade registrant and wishes to permanently export unclassified defense articles via the Form DSP-5, temporarily import unclassified defense articles via the Form DSP-61, or temporarily export unclassified defense articles via the Form DSP-73 will use this system. Other uses of the system involve the submission of Manufacturing License Agreements (MLA's) or Technical Assistant Agreements (TAA's) with foreign companies for approval before the work begins. The Export Control Specialist is the administrator for the program and only Southern Research empowered officials are authorized to submit electronic documents to the DDTC. See the *Guidance Document for ITAR Compliance* on the Export Control SRInsider web page for more details.

Commodity Jurisdiction (CJ's) requests are used to request help from the Department of State in determining whether an item or service is covered by the U.S. Munitions List and therefore subject to export controls administered by the Department of State or Commerce. The DS-4076 form is used to submit this request and is submitted on-line through the Department of State web site by the Export Control Specialist.

3.11 Electronic Submissions to the Department of Commerce

SNAP-R is the Department of Commerce' on-line program for submitting electronic export license applications, commodity classification requests, and associated supporting documents to the BIS. Southern Research Empowered Officials are the administrators for the SNAP-R program and the only Southern Research employees authorized to submit electronic documents

to BIS. See the *Guidance Document for Exporting Items Subject to EAR* on the Export Control SRInsider web page for more details.

3.12 Exporting When No License is Involved.

All tangible exports controlled by, or subject to, EAR or ITAR must adhere to the EAR or ITAR when shipping where no license is required. These regulations require that all packages and commercial invoices be marked with the appropriate ECCN or license exemption number when transported in order to avoid customs clearance problems. The destination control statement must also be present on the commercial invoice (see section 3.13). The exports must also adhere to the department of Census reporting rules for exports (see section 3.14). The Export Control Specialist will provide assistance in determining the appropriate marking for any export, tangible or data. The recipient must be vetted with [Visual Compliance \(section 3.3\)](#) before the package is shipped.

3.13 Exporting When a License is Involved; Destination Control Statements

Shipments made in support of a license will refer to that license on the shipping documents to ensure no delays are encountered in the shipping process. Shipments may not leave company premises until proper reporting to the customs bureau has taken place ([section 3.14](#)) or Courier has assured submission will take place.

A destination control statement must appear on the invoice and on the bill of lading, air waybill or other document that accompanies the shipment of any items subject to U.S. export control regulations. For all EAR controlled items (15 CFR 758.6) except EAR99, the statement must read as specified on the list of approved destination control statements found on the SRInsider Export Control page. A destination control statement for ITAR controlled items (22 CFR 123.9.b) must also read as specified on the list of approved destination control statements.

See section 3.5 for destination control statements for technical data.

3.14 Department of Census Requirements for Exporting

Some exports require that an Electronic Export Information (EEI) notification be made to the Bureau of Census through their electronic reporting structure called the Automated Export System (AES) before the export takes place. The EEI is used to control exports and act as a source document for export statistics. The occasions that require reporting are as follows (Federal Trade Regulations (FTR) 15 CFR part 30.2(a)(iv)):

1. Items shipped under a license authorization (EAR or ITAR).
2. If the item is not controlled by a license, i.e. EAR99, “No License Required” or exemption and its value is over \$2500.
3. All exports that are subject to the EAR and destined to countries in Country Group E:1 of the EAR regardless of value. Those countries are: Cuba, Iran, North Korea, Sudan and Syria.

A Schedule B number will be determined for each article that is reported. The Export Control Specialist may use Visual Compliance to assist in determining the correct Schedule B number. The Department of Commerce reporting must be done before the shipment leaves Southern Research property.

The occasions exempt from AES reporting include (FTR 30.36 – 30.40):

1. Shipments destined for Canada.
2. Tools of trade which are hand carried, personal or company use, not for sale, not shipped as cargo and returned within 1 year.
3. Intangible exports of software and technology.
4. Items with a value of <\$2500 and no license is required.

If no EEI is required, the airway bill or other loading document must state, “No EEI required, no individual B number valued over \$2500.”

The Freight Forwarder, directly or through their on-line software, will submit the necessary reports to the Department of Census; therefore, prior notice in advance of the proposed shipment date, is required.

3.15 Event Notification Procedure

If any of the following events occur, immediately contact the Export Control Specialist or any member of the Oversight Committee.

- Any non-routine contact, by phone, letter or in person, by a United States Government official or agency concerning exports or imports.
- If a shipment from or to Southern Research is detained or seized by U.S. Customs.
- Receipt of a subpoena or other criminal procedure notification related to U.S. export or import laws.
- A suspected violation of export control laws or the Institute’s guidelines regarding exports.
- Any reporting requirements under the antiboycott and restricted trade practices regulations.

Notification must occur as soon as possible after any of the above events.

3.16 Voluntary Disclosures

EAR and ITAR strongly encourages self-disclosure of any violation of the EAR or ITAR and procedures for reporting are found in the regulations. Voluntary disclosures do not absolve Southern Research from wrongdoing but may be considered a mitigating factor in determining sanctions.

When appropriate, Southern Research shall disclose involvement in violations to the proper authorities in accordance with applicable regulations.

If anyone becomes aware of a potential violation of the EAR or ITAR they must contact the Export Control Specialist immediately. A review of the suspected violation will occur and information will be gathered about the circumstances, personnel, items and communications involved. If, after a review by the Oversight Committee, it is determined that a violation has taken place and should be self-disclosed, a letter will be drafted that describes:

1. The project's description and background
2. A description of the suspected violation
3. Which items and controlled categories were involved
4. The dates of the event
5. The countries involved
6. The persons involved and their citizenship
7. An explanation of why the event occurred
8. Any corrective actions taken to ensure the event is not repeated

Only a Southern Research Empowered Official may provide an official voluntary disclosure to the regulatory body.

3.17 Program Reviews and Audits

This Export Control Plan will be reviewed at least annually to ensure compliance with all applicable export control laws and regulations and to determine whether changes, updating, or upgrading of the protective measures are warranted. If revisions to this Plan are needed prior to the yearly review, an amendment to this document is made using the "Manual Revision History" document. All revisions will be added to the next version of the Plan.

At the time of the annual review the program's effectiveness will also be evaluated by the oversight committee and changes made as appropriate.

An internal or external audit will also be performed annually and items reviewed will include at a minimum a survey of completed Export Control Review forms, training, registrations, licenses, and record retention practices.

3.18 Record Keeping

Export compliance records including registrations, licenses, application for licenses, Principal Investigator/Project Leader Export Control Review and Certification statements, employee non-disclosure statements, requests for approval of agreements, approved agreements, training documentation, vetting of clients, and others as appropriate will be maintained in the export control office for a period of at least 5 years from the end of the project or in an electronic format. Documents associated with the shipment of controlled data or materials such as PO's, commercial invoices, bills of lading, airway bills, shippers declaration of dangerous goods, delivery receipts, etc. will be maintained by the Principal Investigator/Project Leader with the associated project files for at least 5 years from the end of the project.

3.19 Other Resources

Bureau of Industry and Security (US Department of Commerce) on-line training

U.S. Department of State (Directorate of Defense Trade Controls) ITAR on-line information

SRI guidance document for EAR (SRInsider/ Export Control)

SRI guidance document for ITAR (SRInsider/ Export Control)

Appendix 1 Acronyms

AES	Automated Export System
BIS	Department of Commerce Bureau of Industry and Security
CCL	Commerce Control List
DDTC	Department of State Directorate of Defense Trade Controls
DoD	Department of Defense
DTIC	Defense Technical Information Center
DTrade	Defense Export Licensing System
EAR	Export Administration Regulations
ECCN	Export Control Classification Number
ECS	Export Control Specialist
ERC	Engineering Research Complex
FTR	Federal Trade Regulations
ITAR	International Traffic in Arms Regulations
MLA	Manufacturing License Agreement
MTA	Material Transfer Agreement
NDA	Non-disclosure Agreement
NISPOM	National Industrial Security Program Operating Manual
OFAC	Department of Treasury Office of Foreign Assets Control
PI	Principal Investigator
PL	Project Leader
SDN list	Specially Designated Nationals and Blocked Persons List
SNAP-R	Simplified Network Application Process Redesign
TAA	Technical Assistant Agreement
USMIL	United States Munitions Import List
USML	United States Munitions List
VPN	Virtual Private Network

Appendix 2. Contact Information

Contact information for responsible persons:

Export Control Specialist/Empowered Official: Larry Wilson (205) 581-2315, office;
(205) 337-9625 cell

Export Control Specialist, Alternate: Randy Harmon (205) 581-2233, office; (205) 389-1318

Oversight Committee:

Jim Ault
Senior Director of Quality (205) 581-2889

Sheryl Burrage
Senior Human Resources Business Partner (205) 581-2509

Bill Grieco
Vice President Energy and Environment (205) 581-2286

Michael Johns
Vice President Engineering (205) 581-2520

Vice President Drug Development

David Rutledge
Vice President Chief Financial Officer (205) 581-2622

Mark Suto
Vice President Drug Discovery (205) 581-2522

Allison Taylor
Vice President General Counsel (205) 581-2833

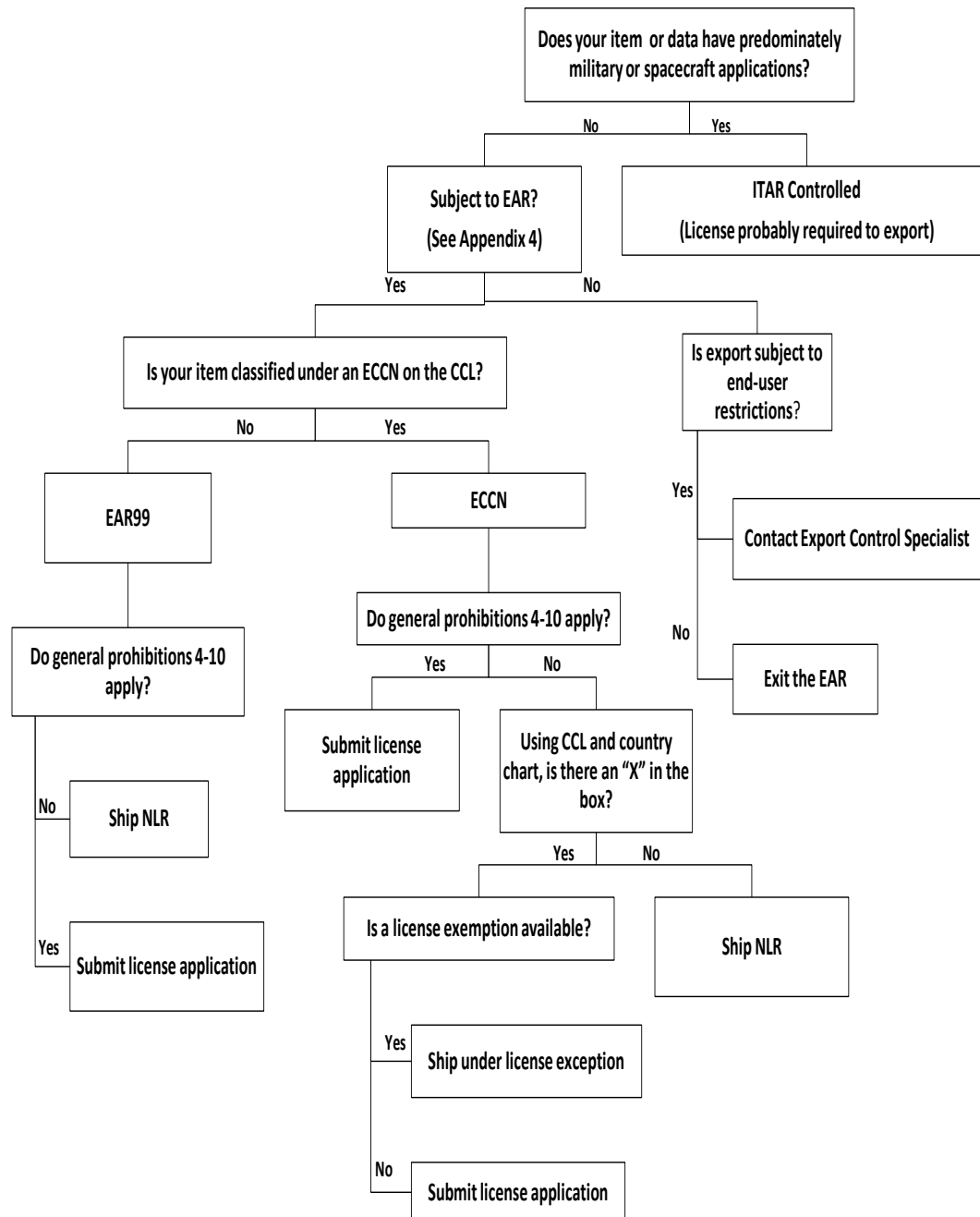
Veronica Tucker
Director of Information Technology (205) 581-2732

Authorized Senior Company Official:

David Rutledge
Vice President Chief Financial Officer (205) 581-2622

Appendix 3. EAR/ITAR Decision Tree

EAR / ITAR Decision Tree



Appendix 4. Subject to the EAR? (15CFR parts 730 -774)

