

Entity List Standard Operating Procedure

Summary

As part of its export control program, the United States Department of Commerce maintains an “[Entity List](#)” that identifies persons or organizations reasonably believed to be involved, or to pose a significant risk of being or becoming involved, in activities contrary to the national security or foreign policy interests of the United States. This could include anything from intellectual property theft to exporting restricted items to sanctioned or embargoes countries. University employees engaging in any activity, including but not limited to, purchasing, shipping, research, teaching, attending conferences, hosting visitors to campus, or hiring or sponsoring VISAs for students or other employees affiliated with any organization or person on the Entity List must first request review and only proceed if the proper approval is granted, as further set out below. Please check the [URCO website](#) for a link to the Entity List or contact URCO at exportcontrols@ksu.edu.

Department of Commerce Entity List Summary

Pursuant to Section 744.11(b) of the Department of Commerce Export Administration Regulations (EAR), the Entity List identifies persons or organizations reasonably believed to be involved, or to pose a significant risk of being or becoming involved, in activities contrary to the national security or foreign policy interests of the United States. The EAR imposes additional license requirements on, and limits the availability of most license exceptions for, exports, re-exports, and transfers (in-country) to listed entities. Even items typically considered to be exempt from export control regulations (EAR99)¹ may not be exported to an Entity List without a license.

Each entity on the Entity List is assigned a specific licensing requirement on the basis of the national security and/or foreign policy considerations associated with the entity's designation on the Entity List. Within the Entity List, the information for each listed entity includes the license requirement, license review policy, and Federal Register citation(s). License requirements vary from “all items subject to the EAR,” which includes items on the CCL as well as EAR99 items, to all items on the CCL, or to all items on the CCL except for specified items.

The Department of Commerce considers that transactions of any nature with listed entities carry a "red flag." Thus, even activities determined to be fundamental research must receive approval, as set out below; this is different than the typical fundamental research exemption generally found in export control laws.

Risks Related to Entity List Activities

Working with, or engaging in any activity with, persons or organizations on the Entity List poses significant risks to the University. The Department of Commerce clearly states that

¹ Most of the products, services, and technologies that fall within the scope of the EAR are not specifically controlled for export and are given the classification of EAR99. They fall under U.S. Department of Commerce jurisdiction and are not listed on the Commerce Control List (CCL). EAR99 items generally consist of low-technology consumer goods. If the proposed export of an EAR99 item is to an embargoed country, to an end-user of concern, or in support of a prohibited end-use, a license will usually be required.

any activity subject to Entity List restrictions is an automatic “red flag.” The most significant risk stems from an inadvertent or accidental violation of the export control regulations, which would require a Voluntary Self Disclosure to the Department of Commerce. Violations of the EAR may be subject to both criminal and administrative penalties. Under the Export Control Reform Act of 2018 (50 U.S.C. §§ 4801-4852) (ECRA), criminal penalties can include up to 20 years of imprisonment and up to \$1 million in fines per violation, or both. Administrative monetary penalties can reach up to \$300,000 per violation or twice the value of the transaction and could result in loss of export privileges.

In addition, even if a violation is unintentional, it could cause significant reputational risk to the university, potentially resulting in loss of federal research funding. Finally, the entities listed on the Entity List are considered “risks” for a variety of reasons, including reasons related to national security, WMD production, intellectual property theft, and espionage.

Request for Approval

University employees who intend to engage in any proposed research collaboration and/or the exchange of items or information, or the sponsorship or hiring of any employee affiliated with any Entity List person or organization, must submit a request for review—preferably four weeks in advance of any activity—to a subgroup of the Export Control Strategic Working Group, comprising the Associate Vice President for Research Compliance, the University Export Controls Compliance Officer, the Assistant Vice President for Risk and Compliance, the Facility Security Officer, and a representative from the affected unit, if applicable. As part of their job duties, the subgroup will collaborate to provide a written recommendation to the Vice President for Research. The VPR will approve or disapprove of the activity and set out any conditions, as applicable, and provide that decision to the requesting employee and his/her supervisor.

In order to request a review for any activity related to the Entity List, please complete the [Entity List Activity Proposal Form](#) and submit to exportcontrols@ksu.edu. If the activity is approved, the URCO will work the employee to develop an Export Controls and Risk Mitigation Plan (ECRM) and/or Technology Control Plan as needed. Please note that in some cases the proposed activity will be disapproved and not permitted to proceed, even with an ECRM in place, due to the level of risk associated with the proposed activity.

Questions pertaining to this policy can be sent to exportcontrols@ksu.edu

Updated October 26, 2020