

## **EXPORT CONTROL POLICY**

### **1. Purpose**

To address the Southern Illinois University – System (SIU-S) obligations to comply with federal export controls. This policy applies to the SIU-S and each of its campuses-- Southern Illinois University Carbondale (SIUC), Southern Illinois University Edwardsville (SIUE), and the Southern Illinois University School of Medicine (SIUSOM). The policy codifies SIU’s commitment to compliance with U.S. export controls, identifies the corresponding responsibilities of SIU-S personnel, and establishes the administrative foundation for the SIU-S export controls compliance program. These steps are required to ensure SIU-S compliance with U.S. export controls.

### **2. Scope**

This policy applies to all members of the SIU-S community, including but not limited to employees, tenure-and non-tenure-track faculty, lecturers, students, postdoctoral fellows, postdoctoral scholars, and other postdoctoral personnel, independent researchers, visiting scholars, visiting scientists, contractors, subcontractors, and volunteers.

### **3. Policy**

SIU-S is committed to complying with U.S. export controls including without limitation the Arms Export Control Act (“AECA”), 22 U.S.C. 2751 *et seq.*; the International Traffic in Arms Regulations (“ITAR”), 22 C.F.R. 120 *et seq.*; the Export Administration Regulations (“EAR”), 15 C.F.R. 730 *et seq.*; the Foreign Assets Control Regulations (“FACR”), 31 C.F.R. 500 *et seq.*; and all campus policies and procedures related to export controls.

SIU-S recognizes the importance of these laws and regulations and expects compliance from all of its personnel. No members of the SIU-S community may engage in any activity or commit the University to engage in any activity that violates U.S. export control laws and regulations. Individuals involved in research and academic projects that are subject to export controls must follow the requirements that are appropriate for the roles they serve. These individuals are responsible for reviewing the materials on the SIU-S Export Control Website and consulting with the Director of Export Controls when export controls apply.

SIU-S export control compliance efforts, screening, and training are coordinated through the Director of Export Controls. Export Control procedures will be drafted by the Director of Export Controls in conjunction with each campus. It is the responsibility of the Principal Investigator/Project Director (PI/PD) on any project or contract to be aware of this policy and to notify the Director of Export Controls of potential export control issues.

Violations can result not only in significant civil or criminal liabilities for SIU-S, and potentially the individuals involved, up to and including termination of employment, but also in damage to national security and to the University's standing as an institution of research and learning.

## 4. Definitions

- **Deemed Export:**

Any release of controlled technology or source code subject to the Export Administration Regulations ("EAR") to a foreign person in the U.S. is "deemed" an export to the person's country or countries of nationality. This deemed export rule does not apply to persons lawfully admitted for permanent residence in the U.S. and does not apply to persons who are protected individuals under the Immigration and Naturalization Act. Refer to section 734.2(b) of the EAR. A "deemed" export situation can occur by access/use in research or training, visual inspection, or an oral exchange of information.

- **Export Administration Regulations ("EAR"):**

Regulations implemented by the U.S. Department of Commerce, which control the export of dual-use technologies (i.e., items used or having the potential to be used for both military and commercial purposes that could adversely affect national security if exported).

- **International Traffic in Arms Regulations (ITAR):**

Regulations implemented by the U.S. Department of State to regulate military or defense related articles, technologies, and services.

- **Office of Foreign Asset Control (OFAC) Sanctions:**

A department of the U.S. Treasury that enforces economic and trade sanctions against countries and groups of individuals involved in terrorism, narcotics, and other disreputable activities enforced by the Office of Foreign Asset Control of the U.S. Department of Treasury.

- **Public Domain as defined by EAR:**

Covers published information and software. Information is "published" when it becomes generally accessible to the interested public in any form, including but not limited to:

- publication in periodicals, books, print, electronic, or other media available for general distribution, either free or at a price that does not exceed the cost of reproduction and distribution
- available at libraries open to the public or university libraries
- issued patents or open patent applications published and available at any governmental patent office
- released or publicly discussed at an open conference, meeting, seminar, trade show, or other open gathering

- **Public Domain as defined by ITAR:**

Covers published information generally accessible or available to the public through:

- sales at newsstands and bookstores

- subscriptions available without restriction
- second class mailing privileges granted by the U.S. government
- libraries open to the public or from which the public can obtain documents
- patents available at any patent office
- through unlimited distribution at a conference, meeting, seminar, trade show or exhibition, generally accessible to the public, in the U.S.
- public release (i.e., unlimited distribution) in any form
- fundamental research in science and engineering at accredited institutions of higher learning in the U.S., where the resulting information is ordinarily published and shared broadly in the scientific community

### **5. Export Controls Record Retention**

SIU-S must comply with regulatory requirements regarding export control-related recordkeeping. These records must be organized to be available when requested by U.S. governmental authorities or for internal audit purposes. Records include printed and hard copy documents, as well as electronic records (including e-mail, e-mail attachments and other electronic files). All records will be retained for a minimum period of **five (5) years** from the date of export or from the date of license expiration, as per the requirements of ITAR Section 123.22 and EAR Section 762.6. Departments, researchers and all SIU-S offices must keep soft or hard copies of all their export documentation, including Restricted Party Screens, financial records such as purchase orders, and shipping documentation (commercial/pro forma invoices, packing lists, FedEx and other international freight forwarder/courier documents), in their research project files for a period of five years from the date of the export, re-export, or controlled deemed export.

(8-15-18)