

Export Control

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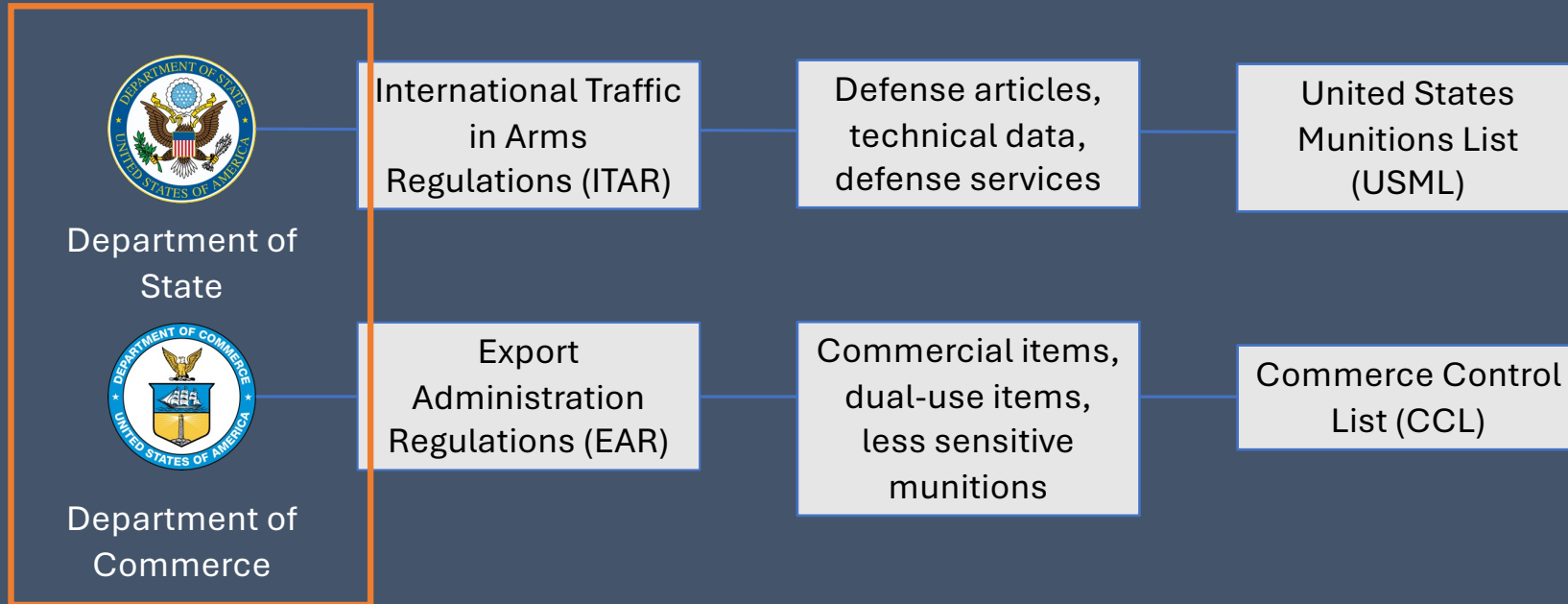
Compliance is part of the NASA mission

NPD 2190.1B “It is NASA policy to ensure that exports and transfers of commodities, technical data, or software to foreign persons and foreign destinations are carried out in accordance with Export Administration Regulations.”

NPR 2190.1C “We want to maximize the benefits of our international efforts while ensuring that we comply with U.S. export control laws and regulations. This is the personal responsibility of each employee.”

Compliance is everyone’s job at NASA

Export control laws and regulations



Missile Technology Control Regime items appear on both the USML and CCL

If an items is listed on the USML or the CCL, an export authorization determination is required.

What is an Export?

- Includes, but not limited to:
 - Shipments/transmission out of the U.S.
- ‘Export’ can also involve:
 - Releasing technical data, technology or to a foreign person in the U.S.
(“Deemed export”)
- ITAR and EAR also regulate:
 - Defense services, WMD related activities/support



U.S. export control regulations define “export”

Controlled information – ITAR

- ITAR (State Dept.) uses the term “technical data”

Technical Data

Information ... 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.

- Relatedly, ITAR controls “defense services”

Defense Service

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.

Controlled information - EAR

- EAR (Commerce Dept.) uses the term “technology”

Technology

Information necessary for the “development,” “production,” “use,” operation, installation, maintenance, repair, overhaul, or refurbishing (or other terms specified in ECCNs on the CCL that control “technology”) of an item

- EAR provides the following note:

“Technology” may be in any tangible or intangible form, such as written or oral communications, blueprints, drawings, photographs, plans, diagrams, models, formulae, tables, engineering designs and specifications, computer-aided design files, manuals or documentation, electronic media or information revealed through visual inspection;

NASA's International Agreements

NASA International Agreements provide the basis for NASA foreign cooperative activities and establish responsibilities of parties involved

- Standard NASA International Agreements clause: transfers of controlled goods & data
- NASA's International Agreements do **NOT** override export control regulations or replace export authorization & recordkeeping requirements

An International Agreement does not provide export authorization or replace a contractor's need for an export authorization

NASA contractors and export control

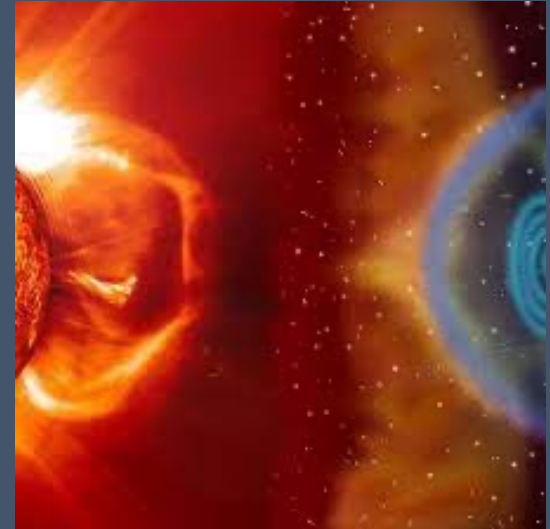
- NASA FAR Supplement: Contractors/subcontractors responsible for their own export compliance (incl. obtaining necessary export authorizations and recordkeeping) in executing contracted work:
 - Clause 1825.603-70: Export control
 - Clause 1852.225-70: Export Licenses
- NPD/NPR 2190: Applies to NASA contractors/grantees as required in their contracts or grants
- Contractors should coordinate with NASA prior to applying for export licenses supporting NASA programs
 - NASA reviews license applications submitted to the Depts. of State and Commerce

Best practices

- Mark or identify (or redact) export-controlled and proprietary information in proposals
 - Pages, sections, or paragraphs
- Identify all foreign partners and participants
- Understand responsibilities under U.S. export controls
 - Coordinate with in-house export control resources
 - Develop and articulate (as needed) export control plans

Resources

- Department of State, Directorate of Defense Trade Controls (ITAR) <http://www.pmddtc.state.gov/>
- Department of Commerce, Bureau of Industry and Security (EAR) <http://www.bis.doc.gov/>
- NASA Export Control Program: <https://www.nasa.gov/oiir/export-control>
- NASA export control contacts: <https://nasa.sharepoint.com/sites/exportcontrol/SitePages/Export-Control-Contacts.aspx>



Questions?

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