

What Researchers Need to Know about Laptops and GPS Equipment

Faculty and Researchers commonly take their laptops with them, both across campus and around the world. Faculty and Researchers need to be aware that they are effectively exporting their laptops not only when they take their laptop abroad, but also when they allow a person in a foreign country to use their laptop or allow a foreign national access to their laptops in the United States.

- Laptops and GPS, and their underlying software are covered by the Export Administration Regulations (“EAR”) and, in some cases, the International Traffic in Arms Regulations (“ITAR”).
- Export regulations vary based on the country to which a researcher is traveling and purpose for which the researcher intends to use the laptop or GPS.
- A license exception (see below) may apply to the export of the laptop or GPS in question, and if so, a researcher may be able to take that equipment abroad without violating the EAR or ITAR.

Taking Laptops or GPS Out of the Country

Excluding embargoed countries, faculty and researchers who wish to take their laptops out of the country to use in a university project that qualifies as fundamental research may be able to do so under the license exception for temporary export (TMP) if the laptop meets the requirements for “tools of trade” and is under control of the researcher at all times.

The Laptop and GPS Decision Tree (see below) is intended to assist faculty and research staff evaluate whether there may be any export issues related to taking their laptop or GPS abroad. Faculty and research staff planning to travel abroad should contact Denise Spiller or Delores Newton at (256) 824-6444 for further assistance with this matter.

Laptop and GPS Decision Tree

DOES AN EXCLUSION OR EXEMPTION FROM U.S. EXPORT CONTROL REGULATIONS APPLY TO MY LAPTOP OR ITS OPERATING SOFTWARE?

A. Yes, an exclusion from U.S. export control regulations applies to my laptop, GPS and its operating software if:
Items a-c must be checked “yes” in order for the PUBLIC DOMAIN exclusion to apply. If you answer “no” to any of the questions above please contact the Research Security Administration Office at 824-6444.

1. My software or technology falls under the PUBLIC DOMAIN EXCLUSION because:

Yes ____ No ____ **a)** the software does/does not (**CIRCLE ONE**) contain(s) source code for 64-bit encryption software or mass market encryption products (see <http://www.bis.doc.gov/Encryption/Default.htm>)

Yes ____ No ____ **b)** there is no reason to believe that the software and technology will be used in the development of a weapon or mass destruction.

Yes ____ No ____ **c)** The underlying source code for the software or the schematics of the technology is already published via one or more of the following:

- Books, print, electronic or other media available for general distribution to any member of the public;
- Libraries open to the public, unrestricted subscriptions, news-stands or book stores;
- Published patents;
- Conferences, meeting, seminars or trade shows in the U.S. that are generally accessible to the public (even for a fee) and where attendees may take notes;

- Websites available to the public free of charge or at a cost that does not exceed the cost of reproduction and distribution; AND/OR
 - General science, math or engineering courses commonly taught at a university and offered in course catalogues.
2. My software or technology falls under the FUNDAMENTAL RESEARCH EXCLUSION because:

Yes _____ No _____ **a)** the software does/does not (**CIRCLE ONE**) contain(s) source code for 64-bit encryption software or mass market encryption products (see <http://bis.doc.gov/Encryption/Default.htm>)

Yes _____ No _____ **b)** there is no reason to believe that the software or technology will be used in the development of a weapon of mass destructions.

Yes _____ No _____ **c)** The software or technology is the subject of basic or applied research in science and/or engineering at an accredited institution of higher education in the United States.

Yes _____ No _____ **d)** my research is funded by the U.S. government; I have complied with specific national security controls agreed to, which may include prepublication review.

Yes _____ No _____ **e)** other restrictions apply to the publication of underlying source code or technology schematics, other than limited prepublication reviews by research sponsors to prevent inadvertent divulging of proprietary information or to ensure that publication will not compromise patent rights of the sponsor.

Yes _____ No _____ **f)** The underlying source code or technology are ordinarily published and shared broadly in the scientific community, have been published, or are about to be published (please see part A.1.c. above for the list of the accepted means of publication.)¹

Items below in B. a-d below must be checked “Yes” in order for the FUNDAMENTAL RESEARCH EXCLUSION to apply. If you have answered “No” to any of the questions above please contact the Research Security Administration Office at (256) 824-6444.

B. Yes, an exemption from U.S. export control licensing requirements applies to my laptop, GPS and the operating software if:

Yes _____ No _____ **a)** my software does/does not (**CIRCLE ONE**) contain(s) source code for 64-bit encryption software or mass market encryption products (see <http://www.bis.doc.gov/Encryption/Default.htm>)

Yes _____ No _____ **b)** the equipment, software and technology is not on the United States Munitions List (USML) under the International Traffic in Arms Regulations see link below for a list of items on the USML. Please carefully review Category XV if you are exporting GPS equipment.

http://www.pmdtc.state.gov/regulations_laws/documents/official_itar/ITAR_Part_121.pdf

Yes _____ No _____ **c)** the equipment, software, and technology will not be put to a military use OR used in outer space.

Yes _____ No _____ **d)** there is no reason to believe that my research could be used in the development of weapons of mass destruction.

C. Transfer of my laptop, GPS, and its operating software to a foreign country or person falls under the BAGGAGE EXCEPTION because: (License Exception BAG (Baggage) allows individuals departing the US either temporarily (travel) or longer-term (relocation) to take with them as personal baggage family-owned retail-level encryption items including laptops, personal digital assistants (PDAs), and cell phones and encryption software in source

or object code. The encryption items and software must be for their personal use in private or professional activities.

Check items below that apply:

(i) ___ I am leaving the United States temporarily (i.e., traveling) or longer-term (i.e., moving)

(ii) ___ I, or a member of my immediate family, will use the item for personal use

(iii) ___ I plan to return to the United States with the item

(iv) ___ the item is a usual and reasonable kind and quantity of tools, instrument, or equipment for use in my trade, lawful research, occupation, employment or vocation

(v) ___ I will retain effective control over the laptop or GPS while abroad by retaining physical possession of the item or securing the item in an environment such as a hotel safe (not my hotel room safe)

(vi) ___ I will accompany the item abroad, or will be shipped within one month before my departure, or at any time after my departure

(vii) ___ I am not exporting the item to Cuba, Libya, Sudan, Iran, or Iraq

(viii) ___ I am not using this item in relation with any nuclear research.

If you checked ALL items above, the EXPORT LICENSE EXCEPTION (TMP) applies. Please complete the certification and forward a copy of this form and the certification to Research Security, VBRH E20.

Maybe: The U.S. export control licensing requirements, may apply to export of my laptop, GPS, or the operating software if only some of the items above applies.

No: I likely must seek an export control license if the laptop or their associated software is designed or modified for:

1. A military use, OR

2. Use in outer space, OR

3. There is reason to believe that my research could be used in the development of weapons of mass destruction.

¹ *If your fundamental research activity concerns information or software on the United States Munitions List (USML), it already must be published in order for the exclusion to apply. The fact that such information is ordinarily published or about to be published is not sufficient. See <http://pmdtc.org/> for more information about the USML.*

² *If you would like to retain the item abroad for more than one year, special authorization may be obtained if this is the case. (15 CFR § 740.9(a) (4) (iii)).*

EXPORT LICENSE EXCEPTION (TMP) CERTIFICATION
For Export Administration Regulations (EAR) controlled Items, Technology, and Software

To: Denise Spiller/Delores Newton, Export Compliance Officers
Research Security, VBRH E20

From: [Insert Name and campus address]

Date: [Insert Date]

Re: **Export License Exception for Temporary Exports/Re-exports***

The export of items, technology, commercial software, and encryption code is subject to export control regulations (this includes laptops, PDAs and digital storage devices). The Department of Commerce's Export Administration Regulations (EAR) makes an exception to licensing requirements for the temporary export or re-export of certain items, technology, or software for professional use as long as the criteria to which you are certifying below are met. The exception does not apply to any EAR satellite or space-related equipment, components, or software, or to any technology associated with high-level encryption products. In addition, this exception does not apply to items, technology, data, or software regulated by the Department of State's International Traffic in Arms Regulations (ITAR).

Please give a detail description of Items, Technology, or Software to which this Certification applies:

[Insert description here]

Travel abroad will be reimbursed under [insert org number].

By my signature below, I certify that:

1. I will ship or hand-carry the items, technology, or software abroad as a "tool of the trade" to conduct UAHuntsville business only;
2. **I will return the items, technology, or software to the US on [insert date] which is no later than 12 months from the date of leaving the US** unless the items, technology, or software are certified by me to have been consumed or destroyed abroad during this 12 month period;
3. I will keep the items, technology, or software under my "effective control" while abroad (defined as retaining physical possession of item or keeping it secured in a place such as a hotel safe (not you hotel room safe), a bonded warehouse, or a locked or guarded exhibition facility;)
4. I will take security precautions to protect against unauthorized release of the technology while the technology is being shipped or transmitted and used abroad such as:
 - a. use of secure connections when accessing email and other business activities that involve the transmission and use of the technology.
 - b. use of password systems on electronic devices that store technology, and
 - c. use of personal firewalls on electronic devices that store the technology;
5. **I will not ship or hand-carry the items, technology, or software to Iran, Syria, Cuba, North Korea, or Sudan without consulting with UAHuntsville Research Security Administration Office.** If I am planning to travel to these countries, an export license is required and I will consult UAHuntsville Export Compliance Officer(s) in the Research Security Administration Office.

Signed: _____

Date Signed: _____

Print Name:
Title:
Department/Center:

****Keep a signed copy with you when traveling abroad***