

Identifying and Managing Restricted Research

Policies

CRR 430.020 Export Control and Sanctions Compliance

University of Missouri – Columbia Export Compliance Management Program

MU Standard Operating Procedure “Export Control Coordination with Office of Sponsored Programs”

Overview

As a public university, the University of Missouri (MU) conducts the majority of its research activities outside the scope of export control and sanctions regulations, and other regulatory restrictions that would limit the full participation of the MU academic community and/or the free and open disclosure of research results. Therefore, MU takes the position that the research conducted by its staff, faculty, and students is in the public domain and is considered “fundamental research” as that term is defined by the Department of Defense and in export control regulations administered by the Departments of State and Commerce. However, MU occasionally accepts restricted research projects that are subject to export controls, sanctions, controlled unclassified restrictions, security controls, and/or other regulations. Restricted research often entails limitations on publication, access and dissemination controls, national security restrictions, or other measures that may require government approval in the form of a license for foreign national participation.

Several factors have the potential to complicate MU’s ability to manage restricted research projects:

- The large population of non-U.S. Persons at the University, particularly in regards to students participating in research through a Graduate Research Assistantship
- A growing interest in defense, space, intelligence, and energy research
- Increased participation in international collaborations

The following procedures document the responsibilities of Research Security and Compliance (RSC), the Principal Investigator (PI), and Sponsored Programs Administration (SPA) through the life cycle of all sponsored projects in order to ensure that sponsored research activity is conducted in accordance with applicable regulations and university policies.

Risk

Failure to comply with regulations can result in severe penalties for MU and the individuals involved. Universities have been fined, and, in one case, a PI was sentenced to prison for violating export control regulations.¹ Additionally, penalties can result in the loss of export privileges and loss of federal funding.

Procedures

In support of each other and the research enterprise at MU, and to ensure compliance with the law, the PI, RSC, and SPA will work collaboratively to perform export control analyses for all sponsored activities at the proposal stage, when an award is being negotiated and/or is accepted, and during the administration and closeout of a restricted research project. SPA will review proposals and agreements for referral to RSC prior to proposal submission or award set-up according to the processes set out in **APPENDIX 1: SPA REFERRAL TO RSC**. RSC will conduct a comprehensive review, with input from the PI or SPA as needed to determine whether a project qualifies as restricted research. If a Technology Control Plan (TCP) is needed to manage a restricted research project, one will be developed by RSC with input from the PI and implemented prior to award set-up. RSC will provide a copy of a final TCP to SPA, signaling that the award set-up process may proceed.

Responsibilities

Below is an outline of responsibilities as they relate to the identification and management of restricted research at MU.

¹ Dr. J. Reece Roth of the University of Tennessee was sentenced to 4 years in prison for export control violations. For more information, see <https://www.justice.gov/opa/pr/retired-university-professor-sentenced-four-years-prison-arms-export-violations-involving>

PI Responsibilities

- Identify all non-U.S. participants, including faculty, staff, students, visiting scholars, subcontractors, collaborators, volunteers, etc. prior to submitting proposal (*if known*) or upon award
- Coordinate with SPA to determine whether a fundamental research assertion should be included in a research proposal prior to submission when the sponsor (including flow through) is the Department of Defense (DoD), a DoD component agency, or the National Aeronautics and Space Administration (NASA)
- Assist RSC in determining if the technology involved in the research is specified or enumerated on the U.S. Munitions List (ITAR) or the Commerce Control List (EAR), as needed
- Collaborate with RSC in the development of a TCP, as required, and implement the research security measures outlined therein
- Provide technical assistance and advice to RSC during the process of drafting and submitting any export license applications needed to conduct a restricted research project
- Notify RSC when staff (students, postdocs, visiting scholars, etc.) are added to or removed from a restricted research project or when there is a change in the scope of work
- Notify RSC if a sponsor provides guidance contrary to the research security requirements outlined in the TCP
- Prevent unauthorized access to export controlled technology or data until RSC has determined that an exclusion applies or an export license has been obtained
- Notify RSC or Ethics, Compliance and Audit Services if a suspected violation of a TCP or export control regulations has occurred

RSC Responsibilities

- Review proposals and agreements, with input from the PI and SPA, to determine if a project will be conducted as fundamental or restricted research
 - Assist SPA, with input from the PI, in negotiating agreements to remove restrictive award clauses when possible
 - Collaborate as needed with the PI to determine whether the technology involved in a research project is specified on the ITAR USML or the EAR CCL
 - If required, advise the PI and SPA of the need for a TCP, consult with the PI during the preparation and review of the TCP, and conduct training for PIs and research staff working on projects subject to a TCP
 - Notify SPA to assign the export control attribute in PeopleSoft to a restricted research project
 - Document the review process and outcome for each proposal and award referred to RSC
- Perform restricted party screening for non-U.S. persons and entities involved in sponsored research activities and for all persons working on a TCP (regardless of their citizenship)
- Conduct training for SPA and other University personnel involved in research administration on their roles and responsibilities in relation to export control regulations and University policies and procedures
- Maintain documentation required by applicable laws, regulations, and University policies regarding restricted agreements
- Assist SPA with security documents for subcontracts associated with classified contracts (i.e., subcontract DD-254 / Contract Security Classification Specification)

SPA Responsibilities

At Proposal:

- Identify and notify RSC of any solicitation or proposal involving any of the following red flags (note – SPA does not need to wait for approval from RSC prior to submitting a proposal):
 - International collaboration (a foreign sponsor, subcontractor, consultant, etc.)
 - *Specific* export control restrictions that indicate that the proposal or the project (once

- awarded) will be subject to export control or sanctions regulations²
- Foreign person restrictions that would limit the participation of non-U.S. persons or non-U.S. citizens in the project, including any sponsor requirement to pre-approve foreign participation or a specific "U.S. persons only" requirement
 - Publication restrictions *unrelated to third-party proprietary or confidential information*³ that prohibit or otherwise require sponsor approval of any publications resulting from or related to the project
 - Publication restrictions that (1) prohibit or otherwise require sponsor approval of any publications resulting from or related to the project *and* (2) pertain to third-party proprietary or confidential information relating to the following research areas and/or key words:
 - Military, intelligence, or munitions
 - Space, satellite, missile, or rocket technology
 - Nuclear, energy, propulsion
 - Unmanned / autonomous vehicles, systems or aircraft
 - Infrared ("night") vision
 - Encryption or source code
 - Pathogens, viruses, bacteria, toxins, or agents
 - Nano or composite materials
 - Security language such as a DoD Contract Security Classification Specification (DD-254) or other indications that the project will be classified for national security purposes, or that project staff will be required to obtain a Personnel Security Clearance (PCL) in order to perform work on the project
 - Export control markings (i.e., Controlled Unclassified Information / CUI, Controlled Technical Information / CTI, Covered Defense Information / CDI)⁴ appear on the solicitation and/or proposal documents or will be required on technical documents, reports, publications, etc. upon award.
 - Identify and notify RSC of any proposals for work to be funded by the Department of Defense (DoD), a DoD component agency, Department of Energy (DOE), or the National Aeronautics and Space Administration (NASA), including flow-through funding for those agencies.
 - If the sponsoring agency is DoD or a DoD component agency, as appropriate, provide PIs with the DoD Information Sheet, see **Exhibit A: DOD INFORMATION SHEET**
 - Include fundamental research language from the DoD Information Sheet in the proposal as directed by the PI or departmental research staff

At Award:

- Identify and notify RSC of any agreements or modifications requiring review (note – SPA shall only execute the agreement and set up the award after having received approval from RSC) :
 - Agreements for projects that involve international collaborations and/or international travel
 - Any agreement funded by the DoD, a DoD component agency, NASA, DOE, or an intelligence agency (including flow through)
 - For NASA (including flow through) obtain a NASA Nonstandard Terms and Conditions form signed by the PI and Department Chair indicating acceptance and agreement to adhere to the NASA restrictions related to funding appropriated in the DoD Appropriations Acts ("China Rule"), see
 -

² A statement that MU is required to comply with export controls and sanctions regulations is not an access or dissemination restriction.

³ Third-party or sponsor provided proprietary or confidential information that is financial or business information, clinical trial or human subjects data, or demographic information is not export controlled technology that requires export control review in order to accept a contractual requirement for MU to protect that information or otherwise limit publication of research results.

⁴ CUI is information that requires safeguarding or dissemination controls but is not classified; examples of markings include Export Control / EXPT; For Official Use Only / FOUO, Protected Critical Infrastructure Information / PCII; Critical Energy Infrastructure Information / CEII; or Sensitive Security Information / SSI; or Controlled Technical Information (CTI) markings (i.e., Department of Defense Distribution Statements B, C, D, E, or F). More information available at <https://www.archives.gov/cio/registry/category-list>

FROM: ○ TO: [NAME OF DoD CONTRACTING OFFICER, NOT THE COR], CONTRACTING OFFICER
[YOUR NAME], [YOUR TITLE]
University of Missouri
SUBJECT: University of Missouri [contract or subcontract] ([contract or prime contract # /
prime contractor])
DATE: MM/DD/YYYY

To Whom it May Concern:

The University of Missouri believes that academic freedom is essential to successfully fulfilling its obligations to its students and to society. This includes a commitment to the belief that faculty members are entitled to freedom in research and the publication of the results of that research. By endorsing the principles of freedom of inquiry and open exchange of knowledge, the results of many University of Missouri research projects qualify as fundamental research efforts not subject to United States export controls, pursuant to 22 CFR § 120.11 (a) (8) and 15 CFR § 734.8, and as outlined in National Security Decision Directive 189 (National Policy on the Transfer of Scientific, Technical and Engineering Information). However, the inclusion of any restriction on publication nullifies the freedom provided under the fundamental research exclusion (FRE). Projects subject to export controls require strict monitoring plans, impose obligations with regard to the protection of Covered Defense Information (CDI) and cyber reporting, and in many cases prevent the University from utilizing the research talent of foreign persons. This places a heavy burden on the University and the principal investigator(s) in particular. It is our preference to avoid such circumstances, when possible.

Under the subject contract, the University of Missouri will [INSERT SCOPE OF WORK]. The Principal Investigator for this project, [PI NAME], has confirmed that the nature of this work is consistent with Fundamental Research as outlined in National Security Decision Directive 189. We would like to request a written determination—pursuant to DFARS 252.204-7000(a)(3)—that the University of Missouri's [subcontracted portion of the] research effort constitutes fundamental research "in accordance with National Security Decision Directive 189, National Policy on the Transfer of Scientific, Technical and Engineering Information" that is not subject to restrictions on publication or dissemination and also therefore does not involve "covered defense information" that would invoke the requirements imposed by DFARS 252.204-7012.

We request that you acknowledge your agreement to the foregoing by signature, below.

Pursuant to DFARS 252.204-7000(a)(3), I hereby agree that the University of Missouri's scope of work to be performed as a subcontractor under contract _____ is Fundamental Research, as outlined in National Security Decision Directive 189.

Signature of Contracting Officer

Date

Name of Contracting Officer

- **Exhibit D: NASA NONSTANDARD TERMS AND CONDITIONS.**
- For DOE (including flow through) obtain a DOE Nonstandard Terms and Conditions form signed by the PI and Department Chair indicating acceptance and agreement to adherence to DOE Order 486.1A ("Foreign Government Sponsored or Affiliated Activities"), see

- **Exhibit E: DOE NONSTANDARD TERMS AND CONDITIONS.**
- Agreements containing references to CUI/CTI
- Any subcontract or consulting agreement to be issued by SPA for work to be performed on a classified contract or that referenced Form DD-254
- *Specific export control restrictions, such as foreign national or publication restrictions unrelated to certain third-party proprietary or confidential information, or security language*
- Modifications such as no-cost time extensions, changes in the scope of work, or international travel not included in the original proposal to any project under a Technology Control Plan or marked with the Export Control attribute in PeopleSoft
- Provide to RSC adequate documentation and information to perform a review. As appropriate and available, this may include:
 - Solicitation
 - Proposal, including statement of work and budget
 - Award
 - Prime award
 - Signed NASA Nonstandard Terms and Conditions Form
 - Signed DOE Nonstandard Terms and Conditions Form
- Negotiate agreements, as appropriate and with input from the PI and RSC, to remove restrictive award clauses, utilizing **Exhibit C: REQUEST FOR DoD FUNDAMENTAL RESEARCH DETERMINATION** as necessary
- Ensure that RSC has completed its review, communicated a final determination of whether a project will be considered restricted research, and provide any required compliance documents (i.e., a Technology Control Plan / TCP) prior to processing an award for setup, issuance of a MoCode, expenditure of funds, etc.
- Notify RSC when a restricted project (under a TCP and/or marked with the Export Control attribute) is beginning or has completed the close out process.

Need Help?

Contact SPA at grantsdc@missouri.edu or (573) 882-7560

Contact RSC at exportcontrols@missouri.edu or (573) 884-9954

Dates

Created 04/21/2020

Revised 06/17/2022

Exhibit A: DOD INFORMATION SHEET

Adapted with permission from Virginia Tech

Research Security and Compliance (RSC) reviews all sponsored agreements funded by the Department of Defense (DoD) because of the likelihood that those agreements will intersect with export control laws such as the International Traffic in Arms Regulations (ITAR). This document contains guidance from RSC on steps that can be taken at the proposal stage that may reduce the possibility of a project being subject to, or minimize the impact of, export control restrictions contained in an award.

Before submitting a research proposal to a DoD agency, or any DoD-funded research proposal in which MU will participate as a subcontractor, RSC recommends the solicitation be reviewed for references to export controls, security, fundamental research, and/or restricted research. Clauses in DoD contracts may automatically restrict publication of research results or impose onerous information security requirements *unless* SPA has "scoped and negotiated" the project as fundamental research with the sponsor. Fundamental research is defined in the ITAR at 22 CFR § 120.11(8):

Fundamental research⁵ is defined to mean basic and applied research in science and engineering where the resulting information is ordinarily published and shared broadly within the scientific community, as distinguished from research the results of which are restricted for proprietary reasons or specific U.S. Government access and dissemination controls. University research will not be considered fundamental research if:

- (i) The University or its researchers accept other restrictions on publication of scientific and technical information resulting from the project or activity, or
- (ii) The research is funded by the U.S. Government and specific access and dissemination controls protecting information resulting from the research are applicable.

If MU accepts restrictions on either publication or access by foreign nationals, a project will not meet the definition of fundamental research. Engaging in non-fundamental ("restricted") research potentially prevents members of MU's international community from participating in the project and endangers graduate students' theses or dissertations (and thus their ability to graduate)⁶. In addition, accepting a restricted research project requires that compliance procedures be established to prevent the unauthorized disclosure of research results: these can include implementation of a Technology Control Plan (TCP) and application of burdensome information security protocols.

If a principal investigator believes his or her proposed research meets the definition of fundamental research, a statement to that effect should be included in the cover sheet and/or proposal document to notify DoD sponsors early in the award process and to assist SPA with award negotiations.

University of Missouri as a prime contractor:

The DoD Policy Memo on Fundamental Research, dated May 24, 2010, emphasizes DoD support for open scientific exchanges and provides guidance to ensure that DoD personnel will not restrict disclosure of the research results of fundamental research. The University of Missouri asserts that the research proposed in the scope of work should be considered fundamental research and anticipates there will be no restrictions on publication or the involvement of foreign researchers, or other requirements in the award that would limit disclosure of the research results.

University of Missouri as a subcontractor:

The DoD Policy Memo on Fundamental Research, dated May 24, 2010, emphasizes DoD support for open scientific exchanges and provides guidance to ensure that DoD personnel will not restrict disclosure of the results of fundamental research. The University of Missouri is submitting this proposal and participating in this project based on the condition that the research can be conducted as fundamental research. The University of Missouri requests that the offeror/prime contractor use its best

⁵ In order for research to be considered 'fundamental research', the research must take place at accredited institutions of higher learning in the U.S.

⁶ MU Graduate Faculty Senate policy prohibits students from using research that could restrict publication/public disclosure of their work. (<http://gradstudies.missouri.edu/academics/thesis-dissertation/diss-thesis-guideline/electronic-basics.php>)

efforts to negotiate provisions in the prime contract to accommodate this subcontract as fundamental research or obtain such certification by DoD contracting personnel that allows the University of Missouri to perform their effort as fundamental research, ensuring that any DoD restrictions on access or dissemination in the prime contract do not flow down to the University of Missouri.

Additional information about export controls and fundamental research is available at the MU Export Controls website (<http://research.missouri.edu/export-controls>). If you have questions, please contact RSC directly at exportcontrols@missouri.edu.

Exhibit B: NASA INFORMATION SHEET

Adapted with permission from Virginia Tech

Fundamental Research. Research Security and Compliance (RSC) reviews all sponsored agreements funded by the National Aeronautics and Space Administration (NASA) because of the likelihood that those agreements will intersect with export control regulations, such as the International Traffic in Arms Regulations (ITAR). This document contains guidance from RSC on steps that can be taken at the proposal stage that may reduce the possibility of a project being subject to, or minimize the impact of, export control restrictions contained in an award.

Before submitting a research proposal to NASA, or any NASA-funded research proposal in which MU will participate as a subcontractor, RSC recommends faculty and staff involved in proposal preparation and submission review the solicitation carefully for references to export controls, security, fundamental research, and/or restricted research. Fundamental research is defined in the ITAR at 22 CFR 120.11(8):

Fundamental Research⁷ is defined to mean basic and applied research in science and engineering where the resulting information is ordinarily published and shared broadly within the scientific community, as distinguished from research the results of which are restricted for proprietary reasons or specific U.S. Government access and dissemination controls. University research will not be considered fundamental research if:

- (i) The University or its researchers accept other restrictions on publication of scientific and technical information resulting from the project or activity, or
- (ii) The research is funded by the U.S. Government and specific access and dissemination controls protecting information resulting from the research are applicable.

If MU accepts restrictions on either publication or access by foreign persons, a project will not meet the definition of fundamental research. Engaging in non-fundamental ("restricted") research potentially prevents members of MU's international community from participating in the project and endangers graduate students' theses or dissertations (and thus their ability to graduate).⁸ In addition, accepting a restricted research project requires that compliance procedures be established to prevent the unauthorized disclosure of research results: these can include the establishment of a technology control plan (TCP), export control training for all project personnel, etc.

Clauses in NASA contracts do have provisions that allow for a project to be awarded as fundamental research. If a principal investigator believes his or her proposed research meets the definition of fundamental research, a statement to that effect should be included in the cover sheet and/or proposal document in order to notify NASA early in the award process and to assist SPA with award negotiations. *The University of Missouri asserts that the research proposed in the scope of work should be considered fundamental research and anticipates there will be no constraints on the involvement of foreign researchers, publication restrictions, or other requirements in the aware that would limit disclosure of the research results.*

Additional information about export controls and fundamental research is available at the Export Control website (<https://research.missouri.edu/export-controls>). If you have questions, please contact Research Security and Compliance directly at exportcontrols@missouri.edu.

Restrictions on Funding Activities with China ("The China Rule")

Public Laws 112-10, Section 1340(a) and 112-55, Section 539 restrict NASA funds from being used to "participate, collaborate or coordinate bilaterally in any way with China or any Chinese-owned"⁹

⁷ In order for research to be considered 'fundamental research', the research must take place at accredited institutions of higher learning in the U.S.

⁸ MU Graduate Faculty Senate "Policy Regarding Theses and Dissertation Content" prohibits students from using research that could restrict subsequent publication or public disclosure of their work. It is important to note that these restrictions do not apply to non-thesis or non-dissertation research approved by the student's advisor and allowed by University of Missouri policies. (<https://gradschool.missouri.edu/current-students/thesis-dissertation/formatting-additional-pages/>)

⁹ "China" or "Chinese-owned" means the People's Republic of China, any company owned by the People's Republic of China, or any company incorporated under the laws of the People's Republic of China. NASA [PIC 12-01A](#)

company." Note that this funding restriction is a policy decision about how funds coming to MU can be used and it is not *necessarily* an export control that restricts a Chinese citizen from participating on a NASA-funded project. Below is general guidance regarding NASA funds and China; this information comes from the law itself and NASA's interpretations of the law.

1. Any person—regardless of his/her citizenship, nationality, or visa status—who maintains an affiliation with a Chinese institution may not work on a NASA project.
2. Persons from China on a J-1 visa in general should not work on a NASA award or collaborate on NASA projects even if no funds are exchanged (i.e., a material transfer agreement or confidentiality agreement), because J-1 visa holders retain their affiliations with their home institutions.
3. Persons on J-1 visas from China or with Chinese affiliations may not use any equipment, software, etc. purchased using NASA funds.
4. H-1 visa holders are typically MU employees who do not retain affiliations with their home institutions and generally can be employed on NASA projects.
5. Commercial items (i.e., supplies) can be procured in or from China using NASA funds because this would not involve "participation, collaboration, or coordination," but subcontracts to China for research or consulting services are not allowed.
6. Travel or other costs related to direct collaboration between an investigator and any person affiliated with a Chinese institution are not allowed. Costs for travel to conference in China using NASA funds may be allowed.

NASA's proposal forms may ask you about your intent to collaborate with Chinese persons or organizations, or any plans to travel to/perform work in China in order to accomplish your proposed project. Additionally, by submitting your proposal, the University is certifying compliance with this restriction. NASA has posted a series of FAQs in regards to this funding restriction at <http://science.nasa.gov/researchers/sara/faqs/prc-faq-roses/>. If you have specific questions about how your project may be impacted, please contact Research Security and Compliance directly at exportcontrols@missouri.edu.

Exhibit C: REQUEST FOR DoD FUNDAMENTAL RESEARCH DETERMINATION

TO: [NAME OF DoD CONTRACTING OFFICER, NOT THE COR], CONTRACTING OFFICER
FROM: [YOUR NAME], [YOUR TITLE]
University of Missouri
SUBJECT: University of Missouri [contract or subcontract] ([contract or prime contract # / prime contractor])
DATE: MM/DD/YYYY

To Whom it May Concern:

The University of Missouri believes that academic freedom is essential to successfully fulfilling its obligations to its students and to society. This includes a commitment to the belief that faculty members are entitled to freedom in research and the publication of the results of that research. By endorsing the principles of freedom of inquiry and open exchange of knowledge, the results of many University of Missouri research projects qualify as fundamental research efforts not subject to United States export controls, pursuant to 22 CFR § 120.11(a)(8) and 15 CFR § 734.8, and as outlined in National Security Decision Directive 189 (National Policy on the Transfer of Scientific, Technical and Engineering Information). However, the inclusion of any restriction on publication nullifies the freedom provided under the fundamental research exclusion (FRE). Projects subject to export controls require strict monitoring plans, impose obligations with regard to the protection of Covered Defense Information (CDI) and cyber reporting, and in many cases prevent the University from utilizing the research talent of foreign persons. This places a heavy burden on the University and the principal investigator(s) in particular. It is our preference to avoid such circumstances, when possible.

Under the subject contract, the University of Missouri will [INSERT SCOPE OF WORK]. The Principal Investigator for this project, [PI NAME], has confirmed that the nature of this work is consistent with Fundamental Research as outlined in National Security Decision Directive 189. We would like to request a written determination—pursuant to DFARS 252.204-7000(a)(3)—that the University of Missouri's [subcontracted portion of the] research effort constitutes fundamental research "in accordance with National Security Decision Directive 189, National Policy on the Transfer of Scientific, Technical and Engineering Information" that is not subject to restrictions on publication or dissemination and also therefore does not involve "covered defense information" that would invoke the requirements imposed by DFARS 252.204-7012.

We request that you acknowledge your agreement to the foregoing by signature, below.

Pursuant to DFARS 252.204-7000(a)(3), I hereby agree that the University of Missouri's scope of work to be performed as a subcontractor under contract _____ is Fundamental Research, as outlined in National Security Decision Directive 189.

Signature of Contracting Officer

Date

Name of Contracting Officer

Exhibit D: NASA NONSTANDARD TERMS AND CONDITIONS

A signed acknowledgement from the PI and the Department Chair of the NASA "China Rule" NonStandard Terms and Conditions is required prior to the release of grant funds for spending.

NONSTANDARD TERMS AND CONDITIONS

PROJECT TITLE: _____

PI NAME: _____

MU PROJECT NUMBER: _____

NASA is restricted from using funds appropriated in the DoD Appropriations Acts (Public Law 112-10 Section 1340(a) and Public Law 112-55, Section 539) to enter into or fund any grant or cooperative agreement of any kind with China, or any Chinese-Owned company. Sponsored Programs Administration has compiled the below guidance from the law itself and from interpretations provided by NASA Headquarters:

1. No person on a J-1 Visa from China may work on any NASA award, including collaboration agreements and agreements where no funds are exchanged.
2. No person (regardless of nationality) with an affiliation with a Chinese institution, including adjunct faculty, may work on a NASA award. Determinations of whether or not status of "honorary faculty" with a Chinese institution is an "affiliation" shall be determined on a case-by-case basis by NASA.
3. Those persons on J-1 Visas from China, and those with a Chinese affiliation, may not use equipment, software, etc. purchased using NASA funds on a restricted project.
4. Although commercial items of supply may be procured in and from China as needed, no subcontracts are allowed for research or consulting at a Chinese institution or a Chinese-owned company.
5. NASA funds cannot be used for travel costs or otherwise to support direct collaboration between an investigator and any person employed by a Chinese institution; no matter what their citizenship. The cost of attending multi-national conferences held in China may be acceptable, but should be pre-approved by NASA.

Please indicate your acceptance of and agreement to adhere to these restrictions by signing below.

The below hereby consents to these nonstandard terms and conditions on this award. I understand that SPA may freeze my accounts under this contract or take other actions as appropriate in the event I fail to abide by these terms and conditions.

Principal Investigator

Date

Department Chair

Date

For internal use only. Not to be sent to sponsor.

Exhibit E: DOE NONSTANDARD TERMS AND CONDITIONS

A signed acknowledgement from the PI and the Department Chair of DOE Order 486.1A NonStandard Terms and Conditions is required prior to the release of grant funds for spending.

NONSTANDARD TERMS AND CONDITIONS

PROJECT TITLE: _____
PROJECT MEMBER NAME: _____
MU PROJECT NUMBER: _____

DOE Order 486.1A mandates "federal and contractor personnel fully disclose and, as necessary, terminate affiliations with foreign country of risk sponsored or affiliated activities" including the following identified activities) on DOE contracts and subcontracts.

☐ I certify I am not engaged in any of the following:

- A **Foreign Government-Sponsored Talent Recruitment Program** as defined in Attachment A:
DEFINITIONS
- **Other Foreign Government Sponsored or Affiliated Activity** as defined in Attachment A:
DEFINITIONS

☐ I certify I am engaged in any of the following:

- A **Foreign Government-Sponsored Talent Recruitment Program** as defined in Attachment A:
DEFINITIONS
- **Other Foreign Government Sponsored or Affiliated Activity** as defined in Attachment A:
DEFINITIONS

Country	Program

Please indicate your acceptance of and agreement to adhere to these restrictions by signing below.

The below hereby consents to these nonstandard terms and conditions on this aware, including review of additional FAQs from DOE regarding this Order. I understand that SPA may freeze my accounts under this contract or take other actions as appropriate in the event I fail to abide by these terms and conditions.

Principal Investigator

Date

Department Chair

Date

For internal use only. Not to be sent to sponsor.

Attachment A: DEFINITIONS

Foreign Countries of Risk

Any foreign country determined to be of risk, following consideration of, but not limited to, the Office of the Director of National Intelligence Annual Threat Assessment and The National Counterintelligence Strategy of the United States of America, by the Under Secretary for Science in consultation with the Under Secretary of Energy; the Under Secretary for Nuclear Security; and the Office of Intelligence and Counterintelligence.

Foreign Country of Risk Entity

A foreign country of risk entity includes the following:

- a. Any foreign government agency or instrumentality thereof of a Foreign Country of Risk;
- b. Any form of business enterprise or legal entity organized, chartered, or incorporated under the laws of a Foreign Country of Risk;
- c. Any form of business enterprise or legal entity which is owned, controlled, or influenced by an entity described in (a) or (b), or by any foreign national of a Foreign Country of Risk.

Foreign Government-Sponsored Talent Recruitment Program

- a. An effort directly or indirectly organized, managed, or funded by a foreign government to recruit science and technology professionals or students (regardless of citizenship or national origin, and whether having a full-time or part-time position).
- b. Programs with the intent to import or otherwise acquire from abroad, sometimes through illicit means, proprietary technology or software, unpublished data and methods, and intellectual property to further the military modernization goals and/or economic goals of a foreign government.
- c. Programs aimed to incentivize the targeted individual to physically relocate to the foreign state for purposes in (a) or (b).
- d. Programs which allow for or encourage continued employment at U.S. research facilities or receipt of Federal research funds while concurrently working at and/or receiving compensation from a foreign institution, and some direct participants not to disclose their participation to U.S. entities.
- e. Programs that provide compensation in any form, including: case, research funding, complimentary foreign travel, honorific titles, career advancement opportunities, promised future compensation, or other types of remuneration or consideration, including in-kind compensation.

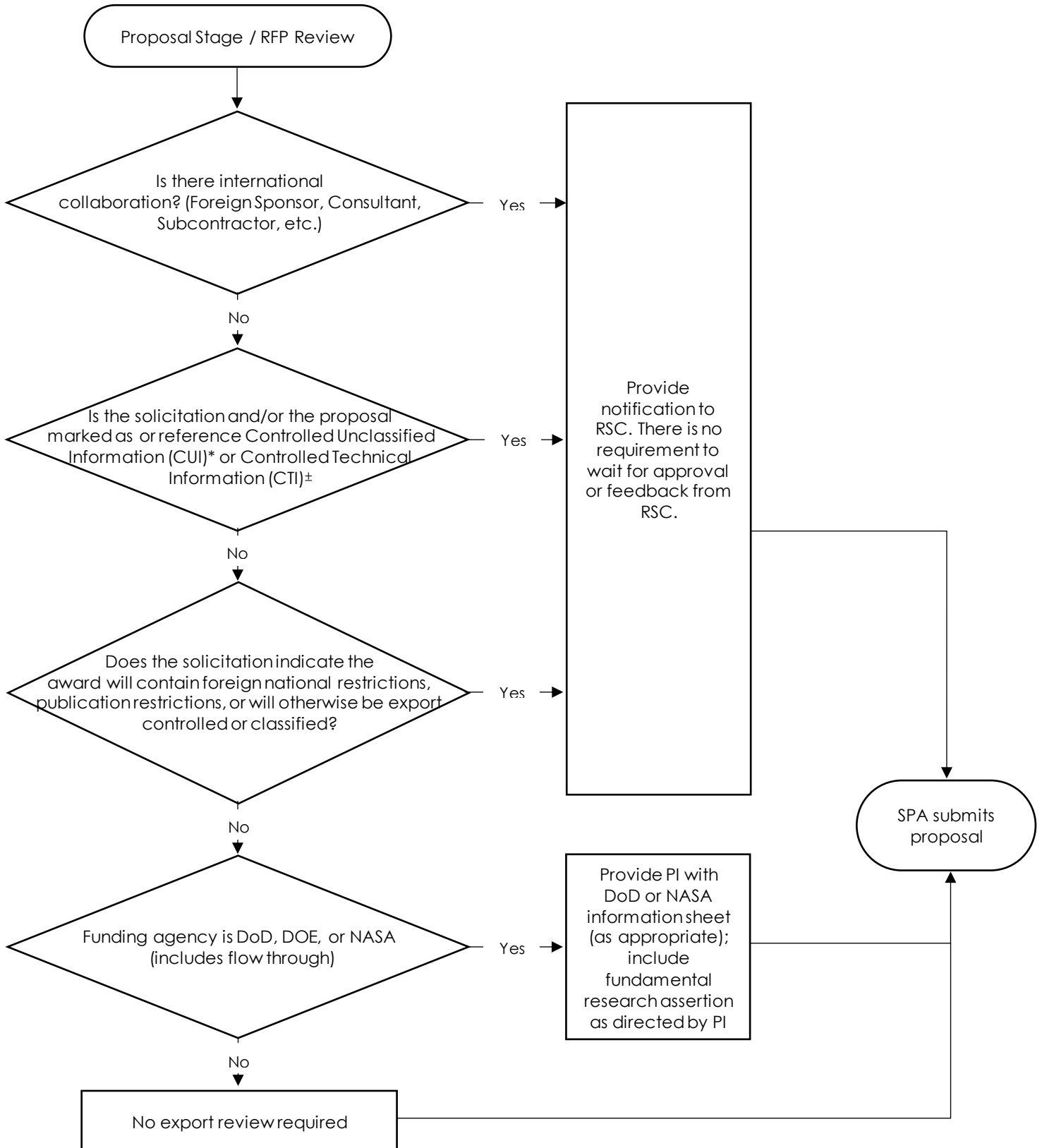
Other Foreign Government Sponsored or Affiliated Activity

1. Included, but not limited to the following activities directly or indirectly involving a foreign country of risk or associated entities:
 - a. Employment
 - b. Other support, contractual or otherwise, direct and indirect, including:
 - i. Current and pending private and public sources of funding or income, both foreign and domestic.
 1. All foreign country of risk entity resources made available, directly or indirectly, to a researcher in support of and/or related to all of their professional R&D efforts, including resources provided directly to the individual rather than through the research institution, and regardless of whether or not they have monetary value (e.g., even if the support received is only in-kind, such as office/laboratory space, equipment, supplies, or employees).
 2. This includes resource and/or financial support from all foreign and domestic entities, including but not limited to, gifts, financial support for laboratory personnel, and participation of student and visiting researchers supported by other sources of funding. This further includes compensation, for example, current or promises of future: grants,

awards, funding, scholarship, appointment, sabbatical, travel, university directed funding, and honoraria.

- c. Current or pending participation in, or applications to programs, e.g., grant programs, sponsored by foreign governments, instrumentalities, or entities, if not a Foreign Government-Sponsored Talent Recruitment Program, as defined. Associated contracts, upon request by DOE, must be disclosed, in addition to the fact of participation.
- d. Positions and appointments, both domestic and foreign, including affiliations with foreign entities or governments. This includes titled academic, professional, or institutional appointments whether or not remuneration is received, and whether full-time, part-time, or voluntary (including adjunct, visiting, or honorary).
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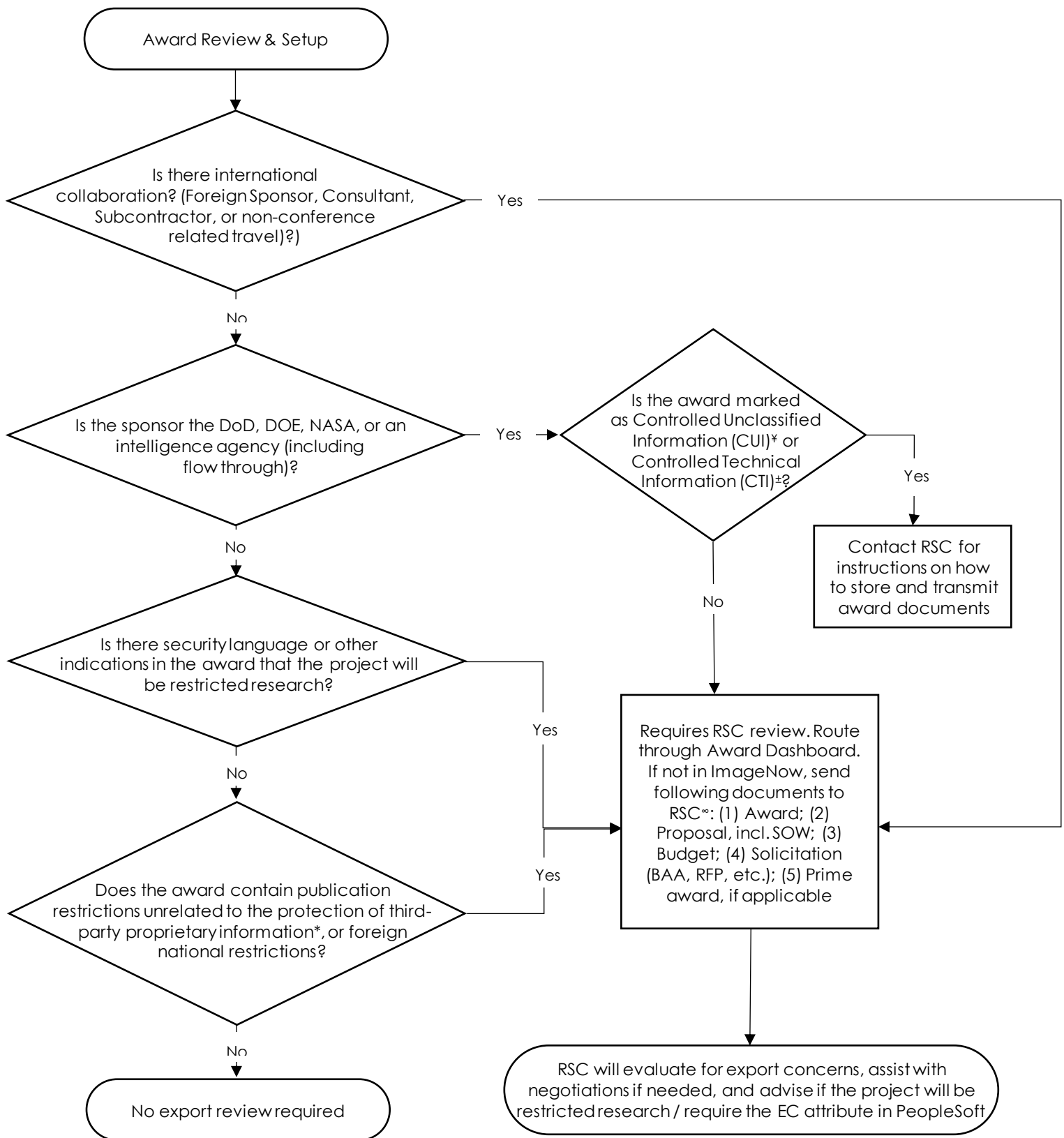
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