

DD Form 2345
MILITARILY CRITICAL TECHNICAL DATA AGREEMENT
(Specific Instructions for filling out form)

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Certification is required per DoDD 5230.25 if you need to handle/access DoD unclassified export controlled technical data for the following purposes:

1. DoD solicitations that involve access to export controlled data
2. Conference/meeting attendance with export controlled material/data
3. Export controlled technical data exchange between vendors
4. Obtain Request for Proposal (RFP) details with export controlled data
5. DoD Research/Development projects involving export controlled data
6. To participate in a Directly Arranged Visit (DAV) (Canada to U.S. or U.S. to Canada)

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BLOCK 1 - TYPE OF SUBMISSION (CHECK ONLY ONE BOX)

• **INITIAL SUBMISSION:**

Check if this is the first time request for certification under the JCP.

• **REVISION:**

Check if you are *revising* any information on an active previously approved application, to show *revised information*, such as:

- | | |
|--|---|
| - Name of the Entity (Block 2a) | - Address (Block 2b) |
| - CAGE/NCAGE Code (Block 2d) | - Data Custodian (Block 3a) |
| - Phone (Block 3b) | - Data Custodian Email (Block 3d) |
| - Relevant Business Activity (Block 4) | - Contractor Certification (Blocks 6a-6d) |

NOTE: Any changes to your entity's status or data during the certification period, you must notify the JCP Office, by submitting a **REVISION** to your DD Form 2345, along with supporting documentation.

BE ADVISED: ANYTIME THERE IS A CHANGE OF DATA CUSTODIANS - "INTRODUCTION TO PROPER HANDLING OF DOD EXPORT-CONTROLLED TECHNICAL DATA" TRAINING MUST BE COMPLETED BY THE NEW DATA CUSTODIAN - See page 9 of this document for training requirements

• **5-YEAR RENEWAL:**

Check this box *only if* the company's 5-year certification is going to expire or has expired.

- Renewal requests may be submitted up to **120 days** prior to certification expiration.

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BLOCK 2 – ENTITY OR INDIVIDUAL DATA

• **Block 2a [NAME] (MANDATORY)**

This **must match exactly** as recorded in the **CAGE/NCAGE** database, and on the supporting documentation you will be providing with your completed form.

CAGE verification Link (for U.S. companies): may be done at:

<https://cage.dla.mil>

And

NCAGE verification Link (for Canadian entities) may be done at:

<https://eportal.nspa.nato.int/AC135Public/scage/CageList.aspx>

- **For Entities:** enter the full legal business name or institution name.
- **For an Individual:** enter your full name as it appears on your documentation.

• **Block 2b [ADDRESS] (MANDATORY)**

- Enter the physical mailing address and ZIP Code of the entity or individual applying for the certification in Block 2d.

• The address **must match exactly** your entity's address:

- **As recorded in CAGE/NCAGE database** (See links above).

• If a P.O. Box is used (for mailing purposes), enter the mailing address separately, in Block 2b.

• **Submit only one DD Form 2345 per CAGE CODE physical address.**

• **Block 2c.** Leave blank (**UNLESS**):

You are a **university, college or higher learning institution** applying for DoD export controlled technical data access for research/development purposes. You must enter "**Office of Research and Grants**" or the name of the office that is its equivalent.

• **Block 2d. [CAGE CODE] (MANDATORY)**

- Enter your entity's CAGE / NCAGE Code **as recorded in the CAGE/NCAGE database** for your location. CAGE website: <https://cage.dla.mil/search>
- Your CAGE Code **must** reflect an active status on the CAGE website prior to JCP submission
- The JCP Certification covers all employees working under that CAGE Code at that location
- Company **must** have a DUNS number: **DUNS Link:** <https://www.dandb.com/product/companyupdate/companyupdateLogin?execution=e1s1>
- Entity **must** have a current registration in **System for Award Management (SAM)** prior to JCP submission
- Please to log into **SAM** and review your registration information. **SAM Link:** <https://www.sam.gov/SAM/>
- Entities are responsible for ensuring that their information is current and correct in SAM in accordance with paragraph (b) of Federal Acquisition Regulation (FAR) clause 52.232-33 or Title 2 of the Code of Federal Regulations Part 25 (2 CFR § 25.310 and Appendix A), as applicable, and should routinely review such information for accuracy.

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BLOCK 3 – DATA CUSTODIAN

Entities or individuals applying for certification ***must designate one person by name*** to act ***as the Data Custodian*** for the entity.

- There can be **only one Data Custodian per physical location of CAGE Code.**
- This person who will be the **sole individual responsible** for downloading, receiving, disseminating or sharing any DoD unclassified export controlled technical data to qualified (certified) U.S. or Canadian contractors under the provisions of the DoD export control law.
- **Block 3a [NAME] (MANDATORY)**

- **Block 3b [TELEPHONE NUMBER] (MANDATORY)**
 - Business landline, telephone number (including area code) of the entity
- **Block 3c [TITLE] (MANDATORY)**
 - **Title of the individual**
- **Block 3d [EMAIL] (MANDATORY)**
 - The email address of the individual in Block 3a where the Data Custodian will receive DOD unclassified controlled technical data and will be responsible for its further dissemination.

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Block 4 – Description of Relevant Business Activity

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You must provide a **CONCISE** response to the eleven items listed below concerning the entity listed in Block 2a. This will assist the U.S. or Canadian Government agency controlling the data in determining whether the DOD unclassified export controlled technical data you request is relevant to your stated business activity.
Include the following information in your resubmission:

NOTE: Failure to provide this information may result in your JCP application being delayed or denied.

Specifically address the following areas:

1. **Indicate if you are a Prime Contractor or a Sub-Contractor (If applicable)**
Example: We are a Prime Contractor

2. **(If a Sub, we will need the Prime's CAGE and Address)**
Example: We are a Sub-Contractor to XXXXXXXXXXXXXXXX (CAGE#####)
If neither of the two above:
Example: We are neither a Prime Contractor nor Sub Contractor.

3. **Describe what you do:**
(i.e.: I am a manufacturer, distributor, data broker, consultant, other)
Example: We are a manufacturer, we are a distributor, I am a data broker, I am a consultant, we are a University,
(if other – please specify)

4. **Describe what type(s) of equipment/material/service do you manufacture/provide:**
(Include commodity, NAICS (North American Industry Classification System) or associated FSC (Federal Supply Class) if known).
Example: We manufacture items related to NAICS ##### (XXXXXXXXXX)
Example: We provide items related to NAICS ##### (XXXXXXXXXX)
Example: We provide services related to NAICS ##### (XXXXXXXXXX)
Example: We are a public research university, where participation in federally funded research occurs
NOTE: You do not need to list ALL NAICS's or FSC's.

5. **Canadian Vendors Only: N/A for U.S. Vendors**
If a Canadian vendor are you registered with the Canadian Controlled Goods Program CGP)?
If Yes, state so and provide registration number.
Example: We have CGP/ITAR certificate #####

6. **Is your equipment/material/service related to the United States Munitions List (USML) or Commerce Control List (CCL)? If Yes, state what category.**

United States Munitions List (USML) involves a variety of items (not just munitions)
<https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=70e390c181ea17f847fa696c47e3140a&mc=true&r=PART&n=pt22.1.121>

Example: Yes, our (equipment/material/service) is related to USML – Category (##)
Example: Yes, our (equipment/material/service) is related to CCL – Category (##)
Example: No, our (equipment/material/service) is not related to USML
Example: No, our (equipment/material/service) is not related to CCL
Example: No, our (equipment/material/service) is not related to USML or CCL

7. **Are you registered with Directorate of Defense Trade Controls (DDTC)?**
If Yes, state so and provide documentation in your resubmission. (Check link above for applicability)
Example: Yes, we have attached a copy of our DDTC registration letter.
Example: No, we are not registered with Directorate of Defense Trade Controls.

Department of State information regarding, International Traffic in Arms Regulations (ITAR):

URL: <https://www.pmdtcc.state.gov/>

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Block 4 – Description of Relevant Business Activity Continued

- 8. **Do you possess an Export Control License?**
If Yes, please state so and provide documentation in your resubmission.
Example: Yes, we have attached a copy of our current Export Control License.
Example: No, we do not have an Export Control License.

- 9. **State your purpose for export controlled access:**
(Bid on DOD solicitations, exchange of data, conference attendance, research and development, other?)
Example: We wish to Bid on DOD Solicitations. We need to exchange data with a JCP Certified entity, We wish to attend conferences/workshops/symposiums where Military Critical Technical Data is shared, We are required to perform DoD research and development on the XYZ project, grant #000000 (if other – please specify)

- 10. **State specifically what system you require access to:**
(FBO, DIBBS, other, none?) If DIBBS, provide account number.
Example: We need access to FBO
Example: We need access to DIBBS (Act No. #####),
Example: We do not require system access (or if something else – please specify)

- 11. **Indicate the government agency and point of contact information requiring you to attain a JCP Certification.**
Example: JCP Certification required by XXXXXXXXXXXXX, POC: XXXXXXXXXXXX, Phone: #####, Email: XXXXXXXXXXXX.

NOTE: This is not the entity applying for certification

EXAMPLE OF BLOCK 4 ITEMS 1–11 modify as needed

We are a Prime Contractor. We manufacture items for the DoD related to NAICS #####. Yes, our (equipment/material/service) is related to USML–Category (##). Yes, we have enclosed a copy of our DDTC registration letter with our submission. Yes, we have attached a copy of our current Export Control License. We wish to Bid on DOD solicitations, **or** We need to exchange data with a JCP certified entity **or** We wish to attend DoD conferences / workshops / symposiums that discuss export controlled technical data, We need access to FBO. JCP Certification is required by ([List Government Agency, POC, Phone and Email address](#)).

EXAMPLE OF ITEMS 1 – 4 for University entity:

We are neither a Prime Contractor nor Sub Contractor. We are a public research university, where participation in federally funded research occurs.

NOTE: Items 5–11 will depend on the University and can be chosen from the list of examples (modify as needed). All information must fit into the space provided in Block 4 on the form, attachments concerning Block 4 are not allowed.

NOTICE:
Proprietary, Personal or other Entity Sensitive information shall not be included in this statement

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BLOCK 5 – CONTRACTOR CITIZENSHIP/RESIDENCY STATUS:

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AS A CONDITION OF RECEIVING DEPARTMENT OF NATIONAL DEFENSE (DND) OR DEPARTMENT OF DEFENSE (DOD) UNCLASSIFIED CONTROLLED TECHNICAL DATA, THE ENTITY CERTIFIES THAT:

• **Block 5a - (MANDATORY) MARK EITHER:**

(1) **UNITED STATES**

Or

(2) **CANADA**

- The individual named in Block 3a, may be either a Canadian or a U.S. citizen or a person admitted lawfully for permanent residence into Canada.
- If the location of the entity is in the U.S., the individual named in Block 3 must be a U.S. citizen or a person admitted lawfully for permanent residence if the facility is located in the U.S.

• **Block 5b**

- The contractor agrees to use the data only in ways mandated by DoD Directive 5230.25 or the Technical Data Control Regulations (TDCR). The contractor must certify that it needs the technical data to bid on or perform a contract with an agency of the U.S. or Canadian Government or for other legitimate business purposes.

• **Block 5c**

- They acknowledge their responsibility under all applicable export control laws and regulations both in Canada and in the U.S. and will not violate said laws or regulations. If a contractor violates the provisions of the agreement, the contractor's eligibility for access to DOD unclassified controlled technical data could be revoked. If a contractor exports the technical data without the benefit of license or other authorization, it may be in violation of export control laws and subject to severe criminal penalties. A contractor violating the provisions of the agreement may be subject to prosecution by the contracting authority.

• **Block 5d**

- Access to DOD unclassified controlled technical data will only be provided to their employees or eligible persons. The contractor must agree not to publicly disclose any unclassified technical data it receives under the agreement, unless specifically authorized by the controlling office, and to limit access to the data to individuals employed at its facility that meeting the following citizenship requirements:

• **Block 5e**

- They must ensure that no employees or eligible persons with access to the DOD unclassified controlled technical data have been debarred, suspended or are otherwise ineligible to perform on Canadian or U.S. government contracts or have violated Canadian or U.S. export control laws and regulations.

• **Block 5f**

- They are also certifying that their organization is not presently or has not in the past, been debarred, suspended or otherwise ineligible from performing on Canadian or U.S. Government contracts or that they have not violated or contravened any Canadian or U.S. export control laws or regulations.

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BLOCK 6 – Contractor Certification:

- **Block 6a - (TYPED NAME) (MANDATORY)**
Type or print the individual's name who can obligate the enterprise to a legally binding contract,
- **Block 6b (TITLE) (MANDATORY)**
Type or print the individual's title identified in Block 6a.
[For Universities](#) - this title must clearly show this individual's relationship to the
Office of Research and Grants, or equivalent organization on campus.
- **Block 6c (SIGNATURE)(MANDATORY)**
 - The legal handwritten signature of the individual indicated in Block 6a, who can legally obligate the entity to a contract must sign.
 - Stamped or Digital signatures are currently NOT acceptable.
 - This individual is legally bound to abide by all terms and conditions listed in Blocks 5a-5f.
- **Block 6d (DATE) (MANDATORY)**
 - Type or print the date the form was signed.

BLOCK 7 – Certification Action

- **Block 7a - For Joint Certification Program Office (JCO) use only.**
- **Block 7b - For Joint Certification Program Office (JCO) use only.**
- **Block 7c - For Joint Certification Program Office (JCO) use only.**

BLOCK 8 - DOD Official

For Joint Certification Program Office (JCO) use only.

BLOCK 9 - CANADIAN Official

For Joint Certification Program Office (JCO) use only.

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DATA CUSTODIAN TRAINING REQUIREMENT

The Joint Certification Program Office now requires [Export Control Compliance training](#) as part of the enhanced procedures for entities that intend to [handle export controlled technical data](#).

This training is a **mandatory** prerequisite when obtaining JCP Certification prior to [export controlled technical data package access](#):

- Department of Defense (DOD) solicitations
 - Conference attendance
 - Symposiums, participation in certain meetings
 - Obtaining Request for Proposal (RFP) details
 - White paper submissions
 - Directly Arranged Visits (DAV) etc.
- Scroll to the end of this document to locate the training course. Once reviewed and understood, fill out and print 'Certification Statement of Export Control Compliance' (Page 15 of the training) – sign and scan into a pdf.file. [Please ensure you check the proper box in item # 4 \(citizenship\)](#).

SUPPORTING DOCUMENTATION REQUIREMENT

Supporting documentation proving the legitimacy of the entity **was not provided in submission**.

You will need to provide documentation proving the company is a registered business entity with a government agency.

The supporting documentation must have the entity name on the documentation as well as the name of the issuing state / province, county, or city.

W-9 FORMS are not acceptable as supporting documentation.

NOTE: Please do not send anything which contains personal information, such as a social security, passport or bank account number, etc.

Examples of proper supporting documentation would include one of the following:

- Sales taxlicense
- Businesslicense
- Filed articles of incorporation (with date stamp or incl. a letter noting the articles are on file at the state)

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DDTC/EXPORT LICENSE DOCUMENTATION

In accordance with 22 CFR §120-130, International Traffic in Arms Regulations, technical data available under the Joint Certification Program (JCP) may qualify as export controlled.

Under 22 CFR § 121.1, [United States Munition List](#), some entities who manufacture or export defense articles or services, which may include associated technical data, you are required to register with the Directorate of Defense Trade Controls (DDTC).

Accordingly,

Is your equipment/material/service related to the United States Munitions List (USML) or Commerce Control List (CCL)? If 'Yes', state what category in your resubmission.

Are you registered with Directorate of Defense Trade Controls (DDTC)?

If 'Yes', state so and provide documentation in your resubmission.

Do you possess an Export Control License?

If 'Yes', please state so and provide documentation in your resubmission.

Providing this information will assist the Joint Certification Office in processing your DD Form 2345. Additionally, once JCP certified, this information will assist in identifying, for the controlling DOD office, what technical data is accessible under your JCP Certification.

Department of State:

https://www.pmdotc.state.gov/?id=ddtc_public_portal_home_page

The United States Munitions List (§121.1):

In this part, articles, services, and related technical data are designated as defense articles or defense services pursuant to sections 38 and 47(7) of the Arms Export Control Act and constitute the U.S. Munitions List (USML). <https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=70e390c181ea17f847fa696c47e3140a&mc=true&r=PART&n=pt22.1.121>.

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SUBMITTING THE DD FORM 2345

Once you have all of the appropriate supporting business/training document(s) you may EMAIL the package with a new or revised DD Form 2345, with an original signature and the current date

To the Joint Certification Program Office

Steps for emailing:

1. Complete the attached, fillable DD Form 2345. ([Blocks 1 – Block 6b](#))
2. Save the form and print it.
3. Wet sign and Date the DD Form 2345. ([Blocks 6c and 6d](#))
4. Scan the form and save form as a.pdf.
5. Attach the DD Form 2345 .pdf file with your supporting documentation/ training completion certificate in an email
6. Send your email/submission to: JCP-ADMIN@DLA.MIL and insert your CAGE and indicate New or Renewal on the subject line

ONCE APPROVED

- The person listed as the Data Custodian will receive the electronic copy of your form signed by the Canadian and U.S. representatives and bearing your certification number and a copy of the Approval Letter.
- Unless specifically annotated in Block 7C, [certification is typically valid for a period of five years.](#)



DEFENSE LOGISTICS AGENCY

THE NATION'S COMBAT LOGISTICS SUPPORT AGENCY



Introduction to Proper Handling of DoD Export- Controlled Technical Data

Version_2

December 21, 2018



WARFIGHTER FIRST



Overview



- This training is meant to provide prospective DLA suppliers with an introductory understanding of the potential export controls and proper handling requirements for DoD export-controlled technical data, to include penalties for violating these requirements under U.S. Federal export control regulations.
- At the completion of this training you will be informed on:
 - DoD Distribution Statements and their restrictions
 - What U.S. Federal Regulations govern the export controls of DoD export-controlled technical data
 - What constitutes DoD export-controlled technical data
 - Penalties for violating U.S. Federal export-control regulations
 - Notification of and acknowledgement by certification that you the prospective supplier understand your responsibilities to comply with U.S. Federal export control regulations



Training Topics



- Training topics include:
 - Understanding DoD Distribution Statements
 - Arms Export Control Act (AECA)
 - Export Control Reform (ECR)
 - Defining DoD export-controlled technical data
 - Transfer Requirements for DoD Export-Controlled Technical Data
 - Penalties for violating export-control laws and regulations
 - Understanding and Notification of Export Control Compliance
 - Certification Statement of Export Control Compliance



Distribution Statements



- Purpose of DoD Distribution Statement on Technical Documents
 - Establishes a standard framework and markings for managing, sharing, safeguarding, and disseminating technical documents in accordance with policy and law.
 - Enables document originators (controlling DoD Office) to signify to what extent technical documents must be controlled.
- Applicability
 - Newly created, revised, or previously unmarked classified and unclassified technical documents generated or managed by all DoD-funded research, development, test, and evaluation (RDT&E) programs, which are the basis of the DoD Scientific and Technical Information Program
 - Newly created engineering drawings, engineering data and associated lists, standards, specifications, technical manuals, technical reports, technical orders, blueprints, plans, instructions, computer software and documentation, catalog-item identifications, data sets, studies and analyses, and other technical information that can be used or be adapted for use to design, engineer, produce, manufacture, operate, repair, overhaul, or reproduce any military or space equipment or technology concerning such equipment.
- * **NOTE:** The data may be in tangible form, such as a model, prototype, blueprint, photograph, plan, instruction, or an operating manual, or may be intangible, such as a technical service or oral, auditory, or visual descriptions.



Summary of Distribution



- All newly created, revised, or previously unmarked classified and unclassified DoD technical documents shall be assigned Distribution Statement A, B, C, D, E, or F
 - DISTRIBUTION STATEMENT A. Approved for public release. Distribution is unlimited.
 - DISTRIBUTION STATEMENT B. Distribution authorized to U.S. Government agencies only. Other requests for this document shall be referred to (insert controlling DoD office)
 - DISTRIBUTION STATEMENT C. Distribution authorized to U.S. Government agencies and their contractors (fill in reason) (date of determination). Other requests for this document shall be referred to (insert controlling DoD office).
 - DISTRIBUTION STATEMENT D. Distribution authorized to the Department of Defense and U.S. DoD contractors only (fill in reason) (date of determination). Other requests shall be referred to (insert controlling DoD office).
 - DISTRIBUTION STATEMENT E. Distribution authorized to DoD Components only (fill in reason) (date of determination). Other requests shall be referred to (insert controlling DoD office)
 - DISTRIBUTION STATEMENT F. Further dissemination only as directed by (inserting controlling DoD office) (date of determination) or higher DoD authority.” Distribution Statement F may be applied under rare and exceptional circumstances when specific authority exists or when need-to-know must be verified.



Summary of Distribution Statements Cont'd



- **EXPORT CONTROL WARNING.** All printed and electronic, including digital, technical documents that are determined to contain export-controlled technical data shall be marked with an export control warning. When it is technically infeasible to use the entire statement, an abbreviated marking may be used, and a copy of the full statement added to the “Notice To Accompany Release of Export-Controlled Data”

Sample of Export Control Warning

WARNING - This document contains technical data whose export is restricted by the Arms Export Control Act (Title 22, U.S.C., Sec 2751, et seq.) or the Export Administration Act of 1979 (Title 50, U.S.C., App. 2401 et seq.), as amended. Violations of these export laws are subject to severe criminal penalties. Disseminate in accordance with provisions of DoD Directive 5230.25.

- * Note: While publications are being updated, export control warning statements may still reference the Export Administration Act of 1979 (Title 50 USC, App. 2401 et seq.) versus the new enactment of Export Control Reform (Title 50 USC, 4801-4851).
- * For additional information related to Distribution Statements please refer to DoD Instruction 5230.24 <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/523024p.pdf?ver=2018-11-08-120712-090>



Arms Export Control Act



- Arms Export Control Act (AECA, 22 USC §2778)
 - Provides the authority to control the export of defense articles and services, and charges the President to exercise this authority. Executive Order 13637 delegates this statutory authority to the Secretary of State.
- International Traffic in Arms Regulations (ITAR, 22 CFR §120-130)
 - Implements the authorities of the AECA. These regulations are regularly updated and revised to reflect change in the international political and security climate, as well as technological development.
- United States Munitions List (USML, 22 CFR §121)
 - **Articles, services, and related technical data** that are designated as defense articles or defense services pursuant to sections 38 and 47(7) of the AECA constitute the USML.
- Directorate of Defense Trade Controls (DDTC)
 - The Directorate of Defense Trade Controls (DDTC), Bureau of Political-Military Affairs, in accordance with 22 U.S.C. §2778-2780 of the AECA and the ITAR (22 CFR §120-130), is charged with controlling the export and temporary import of defense articles and defense services covered by the USML.

DISCLAIMER: This training is for introductory awareness only and does not take precedence over the regulatory requirements, instructions or directions proscribed by the Department of State or Department of Commerce. Where information is unclear, conflicts or further clarification is required, individuals taking this training should consult the Directorate of Defense Trade Controls at: https://www.pmdtc.state.gov/?id=ddtc_public_portal_contact_us for ITAR related inquiries or the Bureau of Industry and Security at: <https://www.bis.doc.gov/index.php/about-bis/contact-bis> for inquiries related to the Export Administration Regulations.



Export Control Reform



- Export Control Reform (ECR, *50 USC §4801 - 4851*)
 - Provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the ability to engage in commerce.
- Export Administration Regulation (EAR, *15 CFR §730-774*)
 - Regulations set forth in parts 730-774, inclusive, of Title 15 of the Code of Federal Regulations, designed primarily to implement Export Control Reform
 - The EAR are issued by the United States Department of Commerce, Bureau of Industry and Security (BIS) under laws relating to the control of certain exports, reexports, and activities.
- Commerce Control List (CCL, *15 CFR §774*)
 - A list of items under the export control jurisdiction of the Bureau of Industry and Security, U.S. Department of Commerce. Note that certain additional items described in part 732 of the EAR are also subject to the EAR. The CCL is found in Supplement No.1 to part 774 of the EAR.

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Defining DoD Export-Controlled Technical Data



- DoD Export-Controlled Technical Data. recorded information, regardless of the form or method of the recording, of a scientific or technical nature (including computer software documentation) that is subject to U.S. Federal export control regulations under the jurisdiction of the Department of State (DoS) as [Technical Data, 22 CFR§120.10] and Department of Commerce (DoC) as [Technology, 15 CFR§772.1]. The term does not include computer software or data incidental to contract administration, such as financial and/or management information.
- All Transfers of DoD export-controlled technical data must be conducted in accordance with U.S. Federal export-control regulations.

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Transfer Requirements and Controls for DoD Export-Controlled Technical Data



- Transfers of DoD export-controlled technical data by purchasers, bidders, or transferees are subject to the requirements of the appropriate licensing department or agency. In many cases, an export license or other authorization may be required prior to transfer.
- With respect to DoD export-controlled technical data covered under the USML, registration of the purchaser's, bidder's, transferee's business with the DoS may also be required. It is the responsibility of the purchaser, bidder, transferee to determine what the applicable requirements may be and to obtain all necessary authorization or approvals.

DISCLAIMER: This training is for introductory awareness only and does not take precedence over the regulatory requirements, instructions or directions proscribed by the Department of State or Department of Commerce. Where information is unclear, conflicts or further clarification is Required individuals taking this training should consult the Directorate of Defense Trade Controls at: https://www.pmdtcc.state.gov/?id=ddtc_public_portal_contact_us for ITAR related inquiries or the Bureau of Industry and Security at: <https://www.bis.doc.gov/index.php/about-bis/contact-bis> for inquiries related to the Export Administration Regulations.



Transfer Requirements and Controls for DoD Export-Controlled Technical Data



- Controls Tangible / Intangible Transfers. The United States and other key supplier countries control the transfer of "technology" not in the public domain that is necessary for the development, production, or use of controlled commodities in the same ways that controls are maintained on transfers of the commodities themselves. Furthermore, the United States makes no legal distinction between "tangible" and "intangible" transfers of controlled technology, the form that the technology takes and the means of transfer is not relevant.
 - These U.S. Federal export-controls also cover all forms of transfer, including e-mails, faxes, and face-to-face conversations. Under U.S. law, providing controlled technology to a foreign person, whether within the U.S. or not, is deemed to be equivalent to physically exporting that technology to the country of the person's nationality.

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Penalties for Violating the AECA



- AECA (22 USC §2778(c) Criminal violations; punishment)
 - Any person who willfully violates any provision of this section, section 2779 of this title, a treaty referred to in subsection (j)(1)(C)(i), or any rule or regulation issued under this section or section 2779 of this title, including any rule or regulation issued to implement or enforce a treaty referred to in subsection (j)(1)(C)(i) or an implementing arrangement pursuant to such treaty, or who willfully, in a registration or license application or required report, makes any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading, shall upon conviction be fined for each violation not more than \$1,000,000 or imprisoned not more than 20 years, or both.

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Penalties for Violating the ECR



- ECR (50 USC §4819 (b) Criminal Penalty)

- A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids and abets in the commission of, an unlawful act described in subsection(a)-

- (1) shall be fined not more than \$1,000,000; and

- (2) in the case of the individual, shall be imprisoned for not more than 20 years, or both.

- ECR (50 USC §4819 (c) Civil Penalty)

- (1) Authority

The Secretary may impose the following civil penalties on a person for each violation by that person of this subchapter or any regulation, order, or license issued under this subchapter, for each violation:

- (A) A fine of not more than \$300,000 or an amount that is twice the value of the transaction that is the basis of the violation with respect to which the penalty is imposed, whichever is greater.

- (B) Revocation of a license issued under this subchapter to the person.

- (C) A prohibition on the person's ability to export, reexport, or in-country transfer any items controlled under this subchapter.

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UNDERSTANDING AND NOTIFICATIONS



1. The use, disposition, export and re-export of this property is subject to all applicable U.S. Laws and Regulations, including but not limited to the Arms Export Control Act (22 USC 2751 et seq.); Export Control Reform (50 USC 4801-4851); Executive Order 13222, as amended; International Traffic in Arms Regulations (22 CFR 120 et seq.); Export Administration Regulations (15 CFR 730 et seq.); Foreign Assets Control Regulations (31 CFR 500 et seq.) and the Espionage Act (18 USC 793 et seq.); which, among other things, prohibit:
 - a) A. The making of false statements and concealment of any material information regarding the use or disposition, export or re-export of the property and
 - b) Any use, disposition, export or re-export of the property not permitted by applicable statute and regulation.
2. The submission of false or misleading information and/or concealment of any material facts regarding the use, disposition or export of this property may constitute a violation of provisions of 18 USC 793/1001, 22 USC 2778/2779, 50 USC 4819. Sanctions for violations will be in conformity with U.S laws and regulations (including Federal Acquisition Regulations and DoDI 2030.08) and may include the denial of U.S. export privileges and of any participation in future U.S. Government contracts.
3. Transfers of USML and CCLI property by purchasers/bidders/transferees are subject to the requirements of the appropriate licensing department or agency. In many cases, an export license or other authorization may be required. With respect to USML, registration of the purchaser's/bidder's/transferee's business with the Department of the State may also be required. It is the responsibility of the purchaser/bidder/transferee to determine what the applicable requirements may be and to obtain all necessary authorization or approvals.
4. When USML/CCLI property is transferred, the information in this form regarding the above laws and regulations must be passed to the subsequent purchaser/receiver. Records of Resale in buyer's possession should be available for Trade Security Controls Office review, if requested.
5. The DD2345 number, Invitation For Bid and Sale/Exchange Contract number can be referenced when submitting an application for an export license or other authorization to the Department of State for USML or Department of Commerce for CCLI.
6. The Government expects the Purchaser/Recipient to cooperate with all authorized Government representatives to verify the existence and condition of USML/CCLI.



Certification Statement of Export Control Compliance (To be signed by Transferee)



1. I do certify that all information given in this Statement Regarding Disposition and Use of Property is true and correct to the best of my knowledge and belief and have not knowingly omitted any information which is inconsistent with this statement. I understand this statement will be referred to and be a part of the Military Critical Technical Data Agreement or contract of sale/exchange with the U.S. Government. I agree to submit a written request for amendment of this statement to the Approving Official prior to effecting any change of fact or intention from that stated herein or in any prior amendment, whether occurring before or after the release of the commodities, and not to effect such changes without first receiving written approval of the Approving Official.
2. I acknowledge having been advised that the USML/CCLI property I purchased or have been granted access to is controlled by the U.S. Government and in many cases cannot be transferred (exported, sold or given) to a foreign country, a non-U.S. Citizen/National or a non-Permanent US Resident without a valid State/Commerce Department export authorization. Should I transfer this property to a foreign country, a non-U.S. Citizen/National or a non-Permanent US Resident, I will obtain any required authorization before making such transfers. I will not transfer this property to countries, regimes and nationals targeted under the sanctions program administered by the U.S. Treasury Department's Office of Foreign Assets Control.
3. Neither the applicant, corporate officers, directors or partners is:
 - A. The subject of an indictment for or has been convicted of violating any of the U.S. Criminal statutes enumerated in 22 CFR120.27 since the effective date of the Arms Export Control Act, Public Law 94-329, 90 Stat. 729 (June 30, 1976) ; or
 - B. Ineligible to contract with, or to receive, a license or other approval from any agency of the U.S. Government.
4. The person signing this DLA Form 1822 is (*check all that apply*):
 - a Citizen of the United States of America, or
 - lawfully admitted to the United States for Permanent Residence and maintains such residence under the Immigration and Nationality Act, as amended (8 USC 1101 (a), 20), or
 - a Citizen of , and/or
 - is an official of a foreign government entity in the United States.

CAGE Number: _____

COMPANY NAME: _____

NAME (*Type or Print*)

SIGNATURE

DATE SIGNED

