



Technology Control Plan

I. SCOPE

The procedures contained in this plan apply to all departments of Michigan Technological University (Michigan Tech), 1400 Townsend Drive, Houghton, MI 49931. Disclosure of export controlled information to foreign persons in a visitor status or in the course of their employment by Michigan Tech is considered an export disclosure under the International Traffic in Arms Regulations (ITAR) and requires a Department of State license or Department of State approval of either a Technical Assistance Agreement or a Manufacturing License Agreement.

II. PURPOSE

To delineate and inform employees and visitors of Michigan Tech the controls necessary to ensure that no transfer of classified defense information or controlled unclassified information (defined as technical information or data or a defense service as defined in ITAR paragraphs 120.9 & 120.10) occurs unless authorized by the Department of State Directorate of Defense Trade Controls (DDTC), and to ensure compliance with the with federal laws or contract commitments regarding export control compliance and/or confidentiality.

III. BACKGROUND

Michigan Technological University is a State university providing undergraduate and graduate degrees in a variety of disciplines. Michigan Tech also conducts research in many areas of study. Michigan Tech has expenditures of more than \$58 million in externally sponsored research each year. Michigan Tech faculty research programs range from science and engineering to psychology and communications.

IV. U.S. PERSON/FOREIGN PERSON

A U.S. person is defined as:

- a) A citizen of the U.S.,
- b) A permanent resident of the U.S. (i.e. a "green card" holder) or
- c) A political asylee or refugee status holder

A Foreign Person is any person who is not a citizen or national of the United States. A Foreign Person is also defined as any foreign interest, and any U.S. person effectively controlled by a foreign interest.

A Foreign Interest is any foreign government, agency of a foreign government, or representative of a foreign government; any form of business enterprise or legal entity organized, chartered or incorporated under the laws of any country other than the U.S. or its possessions and trust territories, and any person who is not a citizen or national of the United States.

A. Foreign Persons

- 1) No foreign person will be given access to classified material or controlled unclassified information on any project or program that involves the disclosure of technical data as defined in ITAR paragraph 120.10 until a license authority has been approved by DDTC.
- 2) Foreign Nationals may not work on projects ineligible for the Fundamental Research Exclusion (FRE) without an export license.
- 3) Additionally, foreign nationals may not work on the following specific project without an export license:

B. Foreign Person Indoctrination *(if relevant to the contract)*-

Foreign persons employed by, assigned to (extended visit) or visiting Michigan Tech shall receive a briefing that addresses the following items:

- 1) The briefing will outline the specific information that has been authorized for release to them.
- 2) They will adhere to the Michigan Tech security rules, policies, procedures and regulations.
- 3) Prior to the release of classified material or controlled unclassified information to a foreign person, an export authorization issued by DDTC needs to be obtained by Michigan Tech.
- 4) They will adhere to the Michigan Tech regulations for the use of facsimile, automated information systems and reproduction machines.
- 5) Any classified information they are authorized to have access to, and need to forward overseas, will be submitted to the Michigan Tech security department for transmission through government-to-government channels.
- 6) Information received at Michigan Tech for the foreign national and information that the foreign national needs to forward from Michigan Tech shall be prepared in English.
- 7) Violations of security procedures and regulations committed by foreign nationals are subject to Michigan Tech disciplinary procedures as outlined in the Michigan Tech employees' handbook, and applicable laws of the United States.

V. ACCESS CONTROLS for FOREIGN NATIONALS

Foreign nationals will be controlled within the company's premises:

- 1) Escorts: Michigan Tech supervisors of foreign persons shall ensure that foreign nationals are escorted in accordance with U.S. government and Michigan Tech regulations.
- 2) Physical Security: Project data and/or materials must be physically shielded from observation by unauthorized individuals by operating in secured laboratory spaces, or during secure time blocks when observation by unauthorized persons is prevented. Segregated work areas with key-controlled access for approved personnel may be created for ITAR programs.

VI. EXPORT CONTROLLED INFORMATION

No export controlled information, both classified and unclassified, can be disclosed to foreign nationals without a license from the Department of State Directorate of Defense Trade Controls (DDTC).

VII. NON-DISCLOSURE STATEMENT and ACKNOWLEDGEMENT

All persons shall sign a non-disclosure statement (attachment A) that acknowledges that classified and controlled unclassified information shall not be further disclosed, exported or transmitted by the individual to any foreign national or foreign country, unless DDTC authorizes such a disclosure and the receiving party is appropriately cleared in accordance with its government's personnel security system.

Michigan Tech may also address other controlled information such as company proprietary or unclassified information that does not require an export authorization, but which the contract the information pertains to, calls for specific handling procedures. These will be discussed with personnel on a case by case basis.

Additionally, the Non-Disclosure Statement and Acknowledgement can address the following clauses that may pertain to a specific contract/award:

- 1) "Michigan Tech will only employ a U.S. Citizen, U.S. National or Permanent Resident"
- 2) "Michigan Tech will only use funds from this contract/award to pay an Undergraduate student"
- 3) "Undergraduate student participants in either REU Sites or REU Supplements must be U.S. citizens, U.S. Nationals, or permanent residents of the United States."
- 4)

VIII. SUPERVISORY RESPONSIBILITIES

Michigan Tech employees who have supervisory responsibilities for foreign persons must receive an export control/licensing briefing that addresses relevant ITAR requirements as they pertain to classified and controlled unclassified information.

Supervisors of any Michigan Tech personnel (including foreign national employees) and foreign national visitors shall ensure that the employees and/or visitors are informed of and cognizant of the following:

- 1) Technical data or defense services that require an export authorization is not transmitted, shipped, mailed, hand carried (or any other means of transmission) unless an export authorization has already been obtained by Michigan Tech and the transmission procedures follows U. S. Government regulations.
- 2) Individuals are cognizant of all regulations concerning the handling and safeguarding of classified information, controlled unclassified information, and company proprietary information.
- 3) The individual executes a Technology Control Plan (TCP) briefing, acknowledging that they have received a copy of the TCP and were briefed on the contents of the plan.

- 4) U.S. citizen personnel are knowledgeable of the information that can be disclosed to, or accessed by foreign nationals.

IX. EMPLOYEE RESPONSIBILITIES

All Michigan Tech employees who interface with foreign nationals shall receive a copy of the TCP and a briefing that addresses the following:

- 1) Documents under their jurisdiction that contain technical data are not released to or accessed by any employee, visitor, or subcontractor who is a foreign national unless an export authorization has been obtained by Michigan Tech in accordance with the ITAR or the Export Administration Regulations (EAR).
- 2) If there is any question as to whether or not an export authorization is required, contact the Facility Security Officer or Export Control Official promptly.
- 3) Technical information or defense services cannot be forwarded or provided to a foreign national regardless of the foreign national's location, unless an export authorization has been approved by DDTC and issued to Michigan Tech.

The end of a sponsored research activity does not eliminate the obligation to safeguard export controlled equipment, technology or technical data. As a result, this Technology Control Plan (TCP) will remain in effect as long as the export controlled materials remain on campus.

X. ADDITIONAL CONTRACT RESTRICTIONS/RESPONSIBILITIES

Foreign Nationals may not work on the following specific project/contract without an export license issued by the DDTC:

Other restrictions as required by the project or contract:

For questions and clarifications contact: Ramona
Englund, FSO
DDTC Empowered Official
Keweenaw Research Center rlenglun@mtu.edu
906-487-2654

ATTACHMENT A

NON-DISCLOSURE STATEMENT

I acknowledge and understand that any classified information, technical data or defense services related to defense articles on the U.S. Munitions List (USML), to which I may have access to, or which may be disclosed to me in the course of my (employment, assignment or visit) at Michigan Tech, is subject to export control under the International Traffic in Arms Regulations (title 22, code of Federal Regulations, Parts 120-130).

I hereby certify that such data or services will not be further disclosed, exported, or transferred in any manner to any foreign national or any foreign country without prior written approval of the Department of Defense Trade Controls, U.S. Department of State and in accordance with U.S. government security and customs regulations.

Print Name of Individual Date Signature of Individual

ATTACHMENT B

TECHNOLOGY CONTROL PLAN BRIEFING ACKNOWLEDGEMENT

I hereby acknowledge that I have read, understand, and received a copy of this Technology Control Plan for Michigan Tech and have received a briefing outlining the contents of this TCP. Accordingly, I understand the procedures as contained in this TCP and agree to comply with all Michigan Tech and U.S. government regulations as those regulations pertain to classified information or export controlled information, or as specified in my award or contract restrictions.

Print Name of Individual Date Signature of Individual

Company Briefing Official Use Only

Name of Company Briefing Official Date Signature of Company Briefing Official