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The Secretary of Energy  
Washington, DC 20585

July 28, 1999

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7-28-99

MEMORANDUM FOR HEADS OF DEPARTMENTAL ELEMENTS  
DIRECTORS OF LABORATORIES

FROM: BILL RICHARDSON *BR*  
SUBJECT: DOE Export Control Guidelines

*Cy: Cunniff  
Wilken  
Dever  
Richardson*

Through his May 1999 report entitled, "The Department of Energy Export Licensing Process for Dual-Use and Munitions Commodities," DOE/IG-0445, the Inspector General brought to my attention the need for improved guidance about export control regulations. In particular, he highlighted the confusion that has been caused by inadequate explanation of "deemed exports" and the requirement to obtain export licenses for these exports. As a result of this report, I asked Under Secretary Moniz to establish an Export Control Task Force to address this and other issues.

Under the Task Force's direction, the Office on Nonproliferation and National Security has redrafted the attached Export Control Guidelines, which were previously released in February 1997. The Guidelines clarify when a license is needed for a "deemed export" in connection with foreign travel and foreign visits and assignments. As you know, the recently issued Notice on Unclassified Foreign Visits and Assignments (DOE P 142.1) requires each DOE office and DOE contractor organization to establish an approval process, which includes appropriate input from officials with responsibility for export controls. This process must assure compliance with these Export Control Guidelines. I recommend that you personally review these Guidelines and the Inspector General's report, as I have done, to assist you as you establish that process.

In addition to revising these Guidelines, I have asked the Task Force to prepare one page information sheets (attached) and recommend to me how to improve Headquarters support and strengthen export control expertise to the Field. The Task Force will also undertake additional educational efforts over the coming months.

For additional information about these Guidelines, please contact Ms. Trisha Dedik, Director, Nuclear Transfer and Supplier Policy Division at 202-586-2125.

Attachments



## DOE Guidance for Hosts of Foreign Nationals

This guidance is to help hosts at Department of Energy laboratories and other sites prepare for the visit or assignment of a foreign national. The procedures are to assist in protection of sensitive technologies and appropriate treatments of individuals from sensitive countries as required under DOE Notice 142.1, *Foreign Visits and Assignments*.

- Fill out and submit the authorization request form.
  - Any visit or assignment involving a topic on the Sensitive Subjects List must be marked as involving a "sensitive subject" on the authorization request, regardless of whether the host considers the visit as a whole to be sensitive.
  - Proper identification of sensitive subjects is essential to determine whether an export license is required.
- Consult your security officer about visits or assignments involving security areas, sensitive facilities, sensitive countries, or sensitive subjects in order to determine the security arrangements to be made.
- Consult your export control officer to determine whether the visit or assignment will involve export controlled technologies or information associated with those technologies.
  - Recognize that transfer of export-controlled technology to a foreign national within the United States (just as outside the United States) is a "deemed export" of that technology, requiring an appropriate U.S. Government export license.
  - Make this determination early because some types of licenses may take six months to obtain.
- If an export license or authorization is required, it must be obtained before the visit or assignment can take place.
  - Ensure that security arrangements include any conditions required by the license.
- If a background check or security plan is required, these must be completed prior to the visit or assignment.
  - Under DOE Notice 142.1, authorization requests must be submitted 30 days in advance to ensure that indices checks are completed prior to the beginning of the visit or assignment.

## DOE Guidance for Foreign Travel

This guidance is to help DOE and contractors prepare for their interactions with foreign nationals while on business abroad. The procedures are to assist in protection of sensitive technologies and appropriate interaction with individuals from sensitive countries as required under DOE Order 1500.3A, *Foreign Travel Authorization*.

- Fill out and submit DOE Form 1512
  - Any trip involving a topic on the DOE Sensitive Subjects List must be marked as involving a "sensitive subject" on the authorization request, regardless of whether the traveler considers the trip as a whole to be sensitive.
  - Proper identification of sensitive subjects is essential to determine whether an export license is required.
- Consult your security officer about travel to destinations on the DOE Sensitive Countries List to determine whether a security briefing is necessary.
- Consult your export control officer to determine whether the trip will involve export controlled technologies or information associated with those technologies.
  - Make this determination early because some types of licenses may take six months to obtain.
  - Recognize that verbal transfer of export-controlled technology to a foreign national is an export of that technology, requiring an appropriate U.S. Government export license.
- If an export license or authorization is required, it must be obtained before any technology transfers can take place.
  - Ensure that any conditions required by the license are met.



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Washington, DC 20585

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*Urgency  
cy: Allen  
Richardson*

MEMORANDUM FOR LABORATORY DIRECTORS AND SITE MANAGERS

FROM: *K. Bahr for* ROSE GOTTEMOELLER  
ASSISTANT SECRETARY FOR  
NONPROLIFERATION AND NATIONAL SECURITY

SUBJECT: SELECTION OF LIAISONS FOR EXPORT CONTROL REVIEW OF  
FOREIGN VISITS AND ASSIGNMENTS

Following up on our Friday, November 11, 1999 televideo conference, this is to request that each Department of Energy (DOE) laboratory or other site receiving this memorandum nominate a staff liaison to work with the Nuclear Transfer and Supplier Policy Division (NN-43) in export control/nonproliferation review of all foreign visits and assignments involving sensitive countries and sensitive subjects.

Your liaison selection must be a U.S. citizen with DOE "Q" security clearance, have a scientific or technical background sufficient to interact with scientists in multiple disciplines on a technical level, and be familiar with laboratory and DOE programs. The export control/nonproliferation liaison will also need direct access to the laboratory director or site manager in order to ensure that policy guidance from NN-43 is considered in the decision-making process. This position will be dedicated and full-time. Each lab or site should anticipate funding the liaison's salary for FY00; funding beyond then remains to be determined.

During the November 11 conference call, NN-43 discussed with laboratory participants the process it plans for export control review of proposed foreign national visits and assignments and the role the lab/site liaison will play in the process. It will be the liaison's job to ensure that requests for authorization of visits and assignments contain all required information, to forward the requests to NN-43 through the Foreign Access Record Management System (FARMS), and to deal with questions that may arise.

Please send the name, telephone number, and brief background information of the person from your lab or site who will act as liaison with NN-43 to Jack Caravelli, Acting Director of the Nuclear Transfer and Supplier Policy Division, by Friday, December 3, 1999. Your nominee will be contacted to arrange participation in the training of the liaisons now being organized. If you have any questions or concerns, please contact Zan Hollander (202-586-2125) or Christine Riendeau (202-586-7612) of the NN-43 staff.

Thank you for your cooperation.

cc: Marshall Combs  
Nevaire Rich

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