



**U.S. DEPARTMENT OF TRANSPORTATION**  
**FEDERAL AVIATION ADMINISTRATION**  
National Policy

**ORDER**  
**1240.13**

Effective Date  
09/17/13

**SUBJ:** FAA Export Control Compliance

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- 1. What is the purpose of this order?** This order establishes Federal Aviation Administration (FAA) policy for compliance with U.S. export control requirements.
- 2. Who must comply with this order?** All FAA employees, contractors, and other agents working in support of the Agency must comply with U.S. export control requirements, regardless of whether the transaction requires a formal agreement.
- 3. Where can I find this order?** You can find this order on the MyFAA Employee Web site: [https://employees.faa.gov/tools\\_resources/orders\\_notices/](https://employees.faa.gov/tools_resources/orders_notices/). This order is available to the public at [http://www.faa.gov/regulations\\_policies/orders\\_notices/](http://www.faa.gov/regulations_policies/orders_notices/).
- 4. Why is FAA issuing this order?** The FAA's mission brings many employees into contact with projects involving foreign entities and/or foreign nationals. Multiple U.S. Government agencies issue U.S. export control regulations. All federal government agencies and those acting on their behalf must demonstrate compliance with these regulations.
- 5. Definitions.** For the purposes of this order and associated Supplemental Guidance, the following definitions apply:
  - a.** Foreign Entity: Any organization, corporation, or government agency located, incorporated, or organized to do business in a country other than the United States. Foreign entities also include foreign branches, subsidiaries, and affiliates of U.S. companies, as well as other U.S. entities located in foreign countries. A foreign entity may have a branch, subsidiary, or affiliate in the United States. That branch, subsidiary, or affiliate is considered to be a U.S. person, provided that it is organized to do business (e.g. incorporated) in the United States. Transfers or disclosures to a U.S. person are not considered exports. See Supplemental Guidance for more information.
  - b.** Foreign National: A non-U.S. person. Holders of U.S. green cards and those with permanent residency in the U.S. are not considered foreign nationals for export control purposes.
  - c.** Export-Controlled: Items, services or information subject to U.S. export control requirements.
  - d.** Transaction: The transfer or disclosure of items, services, or information to a foreign entity or foreign national. Transactions may also include allowing foreign nationals to visit FAA facilities or work on FAA contracts.

e. **Export Control Review:** The FAA process, including a legal review and a name check of foreign nationals and entities against the U.S. Government Consolidated Screening List, to determine whether a potential transaction is eligible for export.

The FAA's definitions of some terms may differ from those used by other U.S. Government agencies in order to identify transactions that may require additional scrutiny. FAA employees, contractors, and other agents working in support of the Agency should use the definitions included in this order and the Supplemental Guidance.

**6. How do I comply with this order?** The Office of International Affairs (API) and the Office of the Chief Counsel (AGC) created Supplemental Guidance to assist FAA Lines of Business (LOBs) and Staff Offices in complying with this order. The guidance includes step-by-step instructions for completing an export control review, and is available on both the API and AGC internal websites.

**7. What is or is not export-controlled?** The U.S. export control regulations are broadly written. For example, a conversation, an e-mail, or in certain situations working with a foreign national in the United States or overseas, could all be considered "exports" and subject to export control requirements. In general, the FAA must ensure that items, services, or information are eligible for export. The FAA must also ensure that foreign entities and individuals are eligible to receive U.S. exports.

a. Certain exports are more tightly controlled, such as hardware, software, or information involving:

- encryption technology;
- primary radar;
- GPS technology;
- maintenance hardware and/or services; and
- commercial space technology.

b. Exports to certain countries and organizations, particularly embargoed countries, are also of concern.

c. Working with, giving information to, or training a foreign national, even if in the United States, could be considered an export (also known as a "deemed export") and subject to export control requirements. "Deemed exports" could also include activities involving foreign nationals working on FAA contracts.

d. The FAA must conduct an appropriate review to determine whether items or services are export-controlled before engaging in transactions. Not all items, services, and information are export-controlled. For example, publicly available information (such as most information that can be found on Internet sites) generally is not export-controlled.

e. The export of certain types of information, equipment, and software may be subject to additional security review. Inappropriately disclosing this information to foreign entities might have additional civil or criminal penalties.

f. The Supplemental Guidance includes key questions and tools to help determine whether a transaction requires export control review. See the Supplemental Guidance for points of contact who can provide additional information.

**8. Roles and responsibilities.** FAA LOBs and Staff Offices are responsible for ensuring compliance with all applicable export control requirements before engaging in an international transaction. All FAA employees, contractors and other agents working in support of the Agency who are involved in international transactions must conduct an export control review. See Supplemental Guidance.

a. Each individual is responsible for familiarizing him- or herself with export control requirements and seeking appropriate guidance before transferring or disclosing items, services, or information to a foreign entity or foreign national.

b. FAA LOBs and Staff Offices should identify one or more points of contact (POCs) to facilitate export control reviews for all inquiries made by their organization(s). LOBs and Staff Offices should also inform their personnel of the responsibility to comply with export control requirements and to contact the appropriate POC(s) identified with questions or issues.

c. The Office of the Chief Counsel, Acquisition and Fiscal Law Division (AGC-500), is responsible for reviewing proposed exports and determining whether items, services, or information are export-controlled, and whether proposed transactions are export-eligible against the appropriate set of export regulations. Questions about FAA export control compliance and export eligibility should be referred to AGC-500.

d. The Office of the Chief Counsel, International Law Branch (AGC-270), is responsible for overall review of proposed transactions and agreements with foreign entities. Questions about whether a formal agreement is needed in a particular instance should be referred to API and AGC-270.

e. API is responsible for coordinating international agreements and facilitating the FAA's international relationships. The transfer of items, services or information to a foreign entity or foreign national may require a formal agreement. FAA LOBs and Staff Offices must work with API to determine whether a formal agreement is required, and to ensure that any export is appropriately addressed in the agreement.

f. The Office of Security and Hazardous Materials Safety, Office of Security (AIN), is responsible for the control of both Classified and Controlled Unclassified Information. AIN is also responsible for clearing visits by foreign personnel to FAA facilities.

g. Contracting Officers are responsible for ensuring that appropriate export clauses are included in contracts either performed abroad or involving deliveries to foreign locations. Contracting Officers are also responsible for ensuring that all required security and export control reviews are performed for foreign nationals working on domestic FAA contracts.

**9. Visits and meetings with the FAA.** Certain types of visits by foreign nationals to FAA facilities and meetings with FAA personnel, regardless of the location, are subject to export control requirements. In particular, visits or meetings involving the demonstration of technology and/or software, and visits or meetings that involve the release of source code or other technical

documentation to foreign nationals may require an export control review. FAA LOBs and Staff Offices are responsible for ensuring that all information to be shared with foreign nationals during visits or meetings with the FAA has been reviewed. FAA Order 1600.74 contains guidelines for the conduct of visits by foreign nationals to FAA facilities.

**10. Where can I find additional information?** Other FAA directives, policies, and guidance address different aspects of working with foreign entities or individuals, such as the handling of certain types of information, visits to FAA facilities, and foreign nationals working on domestic FAA contracts. FAA LOBs and Staff Offices must ensure compliance with those directives as applicable, as well as with this order, before engaging in international transactions. Hyperlinks to useful online resources are also included in the Supplemental Guidance.

**a.** FAA Order 1600.72A contains requirements for the use of foreign nationals on FAA contracts, and position risk/sensitivity level designations.

**b.** The FAA's Acquisition Management System (AMS) contains guidance, as appropriate, for including provisions related to foreign nationals/entities in contracts and agreements.

**c.** FAA Order 1600.2 contains requirements for the marking and control of Classified information.

**d.** FAA Order 1600.75 contains requirements for the marking and control of certain types of unclassified information, and is available upon request from ASH.

**e.** FAA Order 1600.74 contains guidelines for the conduct of visits by foreign nationals to FAA facilities.

**f.** Information about traveling with FAA-issued Portable Electronic Devices is available in the Supplemental Guidance.

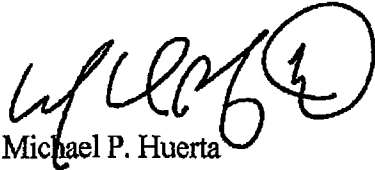
**g.** The following resources include additional information about U.S. export control requirements:

(1) Department of Commerce Export Administration Regulations (EAR) and export licenses, including training materials, available on the U.S. Department of Commerce, Bureau of Industry and Security Web site.

(2) Department of State International Traffic in Arms Regulations (ITAR), available on the U.S. Department of State, Directorate of Defense Trade Controls Web site.

(3) Department of Treasury, Office of Foreign Assets Control (OFAC) Regulations, available on the U.S. Department of the Treasury Web site.

**11. Authority to change this order.** API is responsible for issuing any changes related to the management and implementation of this order. API and AGC may, as necessary, update the Supplemental Guidance associated with this order. The Administrator reserves the authority to approve changes that set policy, delegate authority, or assign responsibility.

A handwritten signature in black ink, appearing to read 'M. P. Huerta', with a circled '1' at the end of the signature.

Michael P. Huerta  
Administrator