





Export Licensing: Tips Exporters Shouldn't Overlook

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Each year, the U.S. Department of Commerce receives thousands of inquiries from businesses looking to export, many of which involve licensing questions. The Commerce Department's Bureau of Industry and Security (BIS), together with other USG agencies, is responsible for export licensing and controls. BIS export licenses may be required for items (commodities, software, or technology) with proliferation, military, or terrorist uses, or which warrant control for other reasons. Export licensing requirements can apply to a wide array of products. A license may also be required because of the end use or end user. Items not licensed by BIS may still require a license from other agencies, including the State Department for defense articles and services subject to the International Traffic in Arms Regulations which are listed on the United States Munitions List (USML).

When it comes to determining whether your export might need a license, there are a few sometimes overlooked aspects that U.S. businesses should be aware of before they export. After reading, go to our [web page and video](#) to find out more about export licensing.

- Don't make any assumptions. For example, just because you are exporting a small amount of a commodity, sending it to a friendly country or e-mailing software doesn't mean you shouldn't check to see if an export license is needed. Screen all the parties to your transaction.
- Review the control lists carefully. The USML and the BIS-administered Commerce Control List (CCL) include not only complete systems and key parts and components, but also raw materials, production equipment, and other related items.
- Different levels of technology can affect where you can export. The level of a product's technology and market destination can be important factors as to whether an export license might be needed. For example, BIS authorized one U.S. exporter of high-end infrared technology to sell a certain level of its technology to Country A, but denied the company's request for a license to export the same level of technology to Country B. The company received authorization to export a less technologically sophisticated product to Country B instead.
- Be aware of "deemed" export licensing requirements. Transferring technology to a foreign person in the United States is just like exporting to a foreign country. If an export license is required to export that technology to a specific country, a license requirement will also apply to transfer the technology to a citizen of that country while that person is in the United States. Persons with U.S. permanent residence, and persons granted status as "protected individuals" are exempt from the "deemed" export rules.

- Don't forget about re-exports. For U.S.-origin items, U.S. export regulations extend beyond the initial export out of the United States. A re-export of a U.S.-origin item from one foreign destination to another, including use aboard a vessel in multiple territorial waters, can also trigger a license requirement. Such scenarios can be built into an export license, so when applying for export licenses, remember to keep the larger picture in mind, rather than only the initial export.
- Protect your items against transfer and transshipment. Foreign buyers are not allowed to resell a controlled item without prior authorization, so protect your company by filling out the destination control statement on your commercial invoice. This legal statement signifies the exports are destined to the end-user indicated in all the shipping documents, and cannot be transferred or transshipped by the foreign buyer without permission from the U.S. government agency with jurisdiction over the licensed item. If you find out that the item has been resold, you should report that fact to the U.S. Government agency with jurisdiction over the item.
- Be aware of criteria for transactions agreed upon under the Incoterm "Ex Works." Under Ex Works, the foreign buyer only becomes responsible for determining licensing requirements and obtaining any required licenses when a specific writing has been obtained first by the U.S. seller from the foreign buyer stating they (the foreign buyer) assume this responsibility. Simply stating the sale is being completed under "Ex Works" does not comply with this requirement. See Section 758.3(b) of the Export Administration Regulations for more details on this requirement.
- Remember that help is available. BIS has counseling desks, located in Washington, DC and California, which are staffed Monday through Friday during business hours by BIS personnel. The Desks' contact information is as follows:
 - o Washington, DC: (202) 482-4811
 - o Irvine, CA: (949) 660-0144
 - o Santa Clara, CA: (408) 998-8806
- You can also email your question to ECDOEXS@bis.doc.gov

Does your product or service require an export license? Learn more about the export licensing process on our [export regulations video and web page](#) which links to the Bureau of Industry and Security, U.S. Commercial Service, and other key resources