

# Trade Compliance Manual Policy

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**Amendment Summary**

Rev	Date	Change Description
1	01 OCT 07	Change Director of International Trade & Compliance with Vice President Corporate Licensing & Governance. (October 2007
2	02 NOV 07	Changed empowered official in paragraph 6.2 to read export personnel. Training held by Compliance Para 6.5.
3	10 MAY 08	Reformat, renumber, and revise complete document for Selex S&AS INC ISO compliance
4	15 SEP 10	Major re-write to meet current operational requirements
5	01 JUL 11	Updated appointment of Empowered Officials and Traffic/Shipping responsibilities
6	11 JAN 16	Updated various sections due to changes in regulation and other minor changes
7	23 MAY 19	Update to align with references to Directive 5 requirements and DRS name change
8	25 FEB 20	Update company name and logo, update name of DSS to DCSA Minor grammatical corrections
9	18 JUN 20	Renumber document from QM002 to EXP-100 and various minor administrative/grammatical changes
10	3 DEC 21	Minor administrative changes and clarifications
11	26 MAY 22	Update for new Directive 5 and other minor administrative changes
12	15 AUG 23	Update to Dir. 12 from Dir. 5 and change cross reference table accordingly

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## 1.0 Introduction

Leonardo Electronics US Inc. (LEI) and its subsidiaries are engaged in international trade. As a part of this activity, the organization is bound by a number of U.S. and International regulations. This policy highlights the specific regulations required by U.S. Government components and sets a mandate for their role in import/export compliance at LEI. Additionally, as a Leonardo SpA affiliate, LEI must also adhere to requirements set forth in Directive 12.

## 2.0 Scope

This manual covers all activities associated with the export or import of any product, service or technical data/technology controlled by the U.S. Government. This includes, but is not limited to, physical items, electronic transmissions or verbal transmissions of controlled information regulated under the Export Administration Regulations (EAR) and the International Traffic in Arms Regulation (ITAR).

## 3.0 Responsibilities

Compliance with U.S. Government regulations regarding import and export of controlled technologies as outlined in this policy is the responsibility of all LEI employees. Corporate Compliance has the main responsibility for implementation, oversight and administration of this policy. Responsibilities outlined in this policy may be delegated by Corporate Compliance to key individuals as appropriate.

## 4.0 Related Documents & Forms

HR-107	Ethics Policy
EXP-101	Trade Compliance Manual – Procedures
CP-100	Business Conduct
EXP-102	Trade Compliance Import Manual
EXP-103	Corporate Trade Compliance Procedure
EXP-104	Employee Trade Compliance Procedure
Leonardo SpA Directive no. 12 02/2023	
International Traffic in Arms Regulations (ITAR)	
Export Administration Regulations (EAR)	
Federal Firearms Regulations	
Foreign Assets Control Regulations	

## 5.0 Abbreviations & Definitions

AECA	Arms Export Control Act
AES	Automated Export System (Electronic SED)
BIS	Bureau of Industry and Security
CCL	Commerce Control List
CBP	Customs and Border Protection
DCSA	Defense Counterintelligence Security Agency
DTSA	Defense Technology Security Administration
DDTC	Directorate of Defense Trade Controls

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DPL	Denied-Parties List
DOC	Department of Commerce
DOD	Department of Defense
DOS	Department of State
ECP	Electronic Communications Plan
EO	Empowered Official
EAA	Export Administration Act
EAR	Export Administration Regulations
ECCN	Export Control Classification Number
FSO	Facility Security Officer
DRS TCO	Leonardo DRS Trade Compliance Office
FMS	Foreign Military Sales
ITAR	International Traffic in Arms Regulations
MDE	Major Defense Equipment
MLA	Manufacturing License Agreement
NISPOM	National Industrial Security Program Operating Manual
NLR	No License Required
SED	Shipper's Export Declaration
SME	Significant Military Equipment
TAA	Technical Assistance Agreement
TCP	Technology Control Plan
TTCP	Technology Transfer Control Plan
USML	United States Munitions List
WDA	Warehouse/Distribution Agreement

## 6.0 U.S. Government Export Policy

### 6.1 Policy

U.S. Government export control laws and regulations govern all sales or other transfer of commodities by a U.S. person to a foreign government, company or individual. All transfers or provision of defense articles, defense services or technical data, whether classified or not, to a foreign destination or person, require prior approval from the U.S. Government.

### 6.2 Reasons for Export Control

The U.S. Government controls exports for reasons of national security, foreign policy, nonproliferation of missile technology and nuclear, chemical and biological weapons, short-supply interests and, in some cases, to carry out its international obligations. The Arms Export Control Act (AECA) authorizes the President to control the export and import of defense articles and defense services. Executive Order 11958 delegates the authority to approve the export of defense commodities and services to the Secretary of State, who has assigned that authority to the Directorate of Defense Trade Controls (DDTC). DDTC's primary responsibility is to provide export licensing services and defense trade policy guidelines to U.S. defense industry.

It is important to have a clear understanding of what constitutes an export, the definitions of application items, the reasons for control, identification of the pertinent

U.S. Government agencies, the applicable laws and regulations, and an insight into the licensing environment. **See Title 22 Code of Federal Regulations (CFR) Parts 120 to 130, International Traffic in Arms Regulations (ITAR)** [http://pmddtc.state.gov/regulations\\_laws/itar\\_official.html](http://pmddtc.state.gov/regulations_laws/itar_official.html) for additional information.

**ITAR Part 120.17 defines an export as:**

- (a) Except as set forth in §126.16 or §126.17, export means:
- (1) An actual shipment or transmission out of the United States, including the sending or taking of a defense article out of the United States in any manner;
  - (2) Releasing or otherwise transferring technical data to a foreign person in the United States (a “deemed export”);
  - (3) Transferring registration, control, or ownership of any aircraft, vessel, or satellite subject to the ITAR by a U.S. person to a foreign person;
  - (4) Releasing or otherwise transferring a defense article to an embassy or to any of its agencies or subdivisions, such as a diplomatic mission or consulate, in the United States;
  - (5) Performing a defense service on behalf of, or for the benefit of, a foreign person, whether in the United States or abroad; or
  - (6) The release of previously encrypted technical data as described in §120.50(a)(3) and (4) of this subchapter.
- (b) Any release in the United States of technical data to a foreign person is deemed to be an export to all countries in which the foreign person has held or holds citizenship or holds permanent residency.

**6.3 U.S. Government Agencies Roles and Responsibilities**

A number of U.S. Government agencies have responsibility for licensing commodities and technical data for export. The two principal agencies exercising export or import licensing jurisdiction are the DOS through the DDTC and the DOC through BIS. The DOD has an advisory role in the export license application review process.

**The Department of State**

The DDTC is responsible for administering Section 38 of the AECA as it relates to the control of permanent exports, temporary exports and temporary imports of defense articles and technology covered by the USML. The DDTC is responsible for the export license application review and compliance functions. The DDTC and the Office Regional Security and Arms Transfers (RSAT) are responsible for providing defense trade policy guidelines to the U.S. defense industry and for overseeing defense trade promotion and export controls.

The RSAT supports the efforts of U.S. defense industry in selling its products overseas. RSAT also provides policy guidance to DDTC licensing officers in support of their efforts to implement the ITAR. In addition, RSAT supplies senior decision makers with advice on technology transfer and strategic trade issues.

The DDTC charter covers those products that are “designed or modified for specific military use.” ITAR Section 120.2 gives them the authority to designate items that are inherently military in nature. Items so designated are “defense articles” and as such, are within the purview of the ITAR for exporting purposes. There are many commodities that have commercial applicability, but were originally designed for military use. When there is a question of licensing jurisdiction, the DDTC will determine whether a product and its corresponding technology are ITAR controlled.

Many licenses received by the DDTC are approved without staffing to other U.S. Government agencies, however, for first-time or sensitive exports, DOD and, at times, other Government organizations review the applications. The DDTC sends a significant number of LEI applications to DOD for review.

The DDTC considers the DOD recommendation and any others it receives, formulates the final position and provides it back to LEI via DECCS

### **U.S. Congress**

Sections 36(c) and 36(d) of the AECA and ITAR Section 123.15 require that the Congress be notified of license and agreement requests for exports of major defense equipment sold under a contract for \$14,000,000 or more, or defense articles and defense services sold under a contract for \$50,000,000 or more to any country that is not a member of the North Atlantic Treaty Organization (NATO), Australia, Japan, Switzerland, or New Zealand, before the issuance of an approval. Congressional Certification is also required when a license for export to a member of NATO, Australia, Japan, Switzerland, New Zealand or South Korea of Major Defense Equipment (MDE) is sold under a contract in the amount of \$25M or more, for defense articles and defense services sold under a contract in the amount of \$100M or more. Notification is also required for agreements involving manufacture abroad of Significant Military Equipment (SME) (ITAR Section 124.11). In these cases, Congressional review becomes part of the license application approval process.

### **The Department of Commerce**

The DOC BIS primary mission of facilitating trade. Under the authority of the Export Administration Act, the DOC administers export controls for commercial, dual-use and less sensitive military products. Dual-use products are commercial in nature but have both commercial and military uses.

The CCL, part 774 of the Export Administration Regulations (EAR), enumerates the items controlled by the BIS. Items not shown anywhere in the CCL can normally be shipped without export licenses under a category EAR99. There are ten general prohibitions found in EAR Part 736 that must be adhered to and are applicable for all shipments. These prohibitions apply whether or not the product is listed on the CCL.

If the product is found to be on the CCL, the entry shows the reason or reasons for control. The next step is to consult the Country List found in Supplement 1 to Part 738 in the EAR. If an "X" appears in the "appropriate reason for control" column next to the destination country, a license is required unless an appropriate exception applies. No "X" usually means that no license is required (NLR). Consult the EAR for further information. **It can be found at the following website:**

[http://www.access.gpo.gov/bis/ear/ear\\_data.html](http://www.access.gpo.gov/bis/ear/ear_data.html)

### **The Department of Defense**

DOD reviews license applications to determine whether an export is in furtherance of U.S. national security. The Defense Technology Security Administration (DTSA) performs its own internal review, incorporating responses from the Joint Chiefs of Staff, Defense Security Cooperation Agency (DSCA), Army, Navy, Air Force, and/or National Security Agency (NSA) in order to formulate a consolidated DOD recommendation for license approval or denial.

If DOD recommends denial of the export license application, the DTSA licensing analyst will call the listed Empowered Official and inform him/her of their pending recommendation. At that point, LEI will have the opportunity to request a "day in court." A "day in court" is a meeting with the DOD staffers who have reviewed the case. At this meeting, LEI will have the opportunity to explain the proposed export in more detail and answer specific questions with the goal of reversing the denial recommendation. Within two weeks of the day-in-court, DTSA returns its final recommendation to DDTC.

DSCA has the primary task of developing and administering Foreign Military Sales (FMS) programs for the Defense Department.

The Defense Counterintelligence Security Agency (DCSA), together with U. S. Customs and Border Protection administers the shipment of classified articles and technical data.

### **The Department of Treasury**

Under the Mutual Security Act of 1954, as amended, the President has delegated to the Department of Treasury's Bureau of Alcohol, Tobacco and Firearms and Explosives (BATFE) the responsibility for the permanent import of U.S. Munitions Import List (USMIL) items per 27 CFR Parts 178 and 179, and temporary imports involving firearms or explosives. **These temporary imports require approval of both DDTC and BATF.** See <http://www.atf.treas.gov>.

Under the Trading with the Enemy Act and the International Emergency Economic Powers Act, the President has delegated to the Department of Treasury's Office of Foreign Assets Control (OFAC), the authority to regulate all trade and financial transactions involving embargoed countries.

<http://www.ustreas.gov/offices/enforcement/ofac/>

### **The Department of Homeland Security**

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The U.S. Immigration and Customs Enforcement (ICE) is a branch of the Department of Homeland Security and is the primary enforcement branch of the U.S. Government for international trade matters. Customs has the power to detain, seize and require forfeiture of articles that are being imported or exported in violation of the law.

**The Department of Energy**

The Department of Energy and the Nuclear Regulatory Commission regulate the export of nuclear materials, technology and services.

**NASA**

NASA participates in the development of advanced spacecraft and instrument technology, particularly with DOD support. NASA encourages, fosters and facilitates international cooperation and coordination of scientific programs and deals with issues of technology transfer arising from international cooperation in applied research and technology development. The protection of data that may confer a competitive advantage to U.S. industries that compete in the international marketplace is a prime goal of NASA, along with the monitoring of space-bound systems and new scientific ideas.

**7.0 Leonardo Electronics US Inc. Policy, Organization and Operations**

**7.1 Leonardo SpA Directive 12**

LEI, as a Leonardo affiliate, is obligated to ensure internal policies and procedures adhere to the requirements set forth in Leonardo SpA Directive 12.

The Directive defines essential principles and general rules related to the management of Trade Compliance activities.

As required by the Directive, the LEI CEO must complete and forward the “Declaration on the State of Implementation” every six months.

The following table outlines those requirements and location within LEI policies and procedures where they are addressed.

Directive 12 Reference	LEI Compliance	Policy/Procedure Reference (if applicable)
6.1.1 Risk Analysis	<ul style="list-style-type: none"> <li>Corporate Compliance is included in all phase reviews for which trade compliance plays a factor, provides appropriate guidance and gains approvals necessary to ensure compliance with U.S. and foreign regulations.</li> <li>Corporate Compliance review is required for all Non-Disclosure Agreements requested by Contracts</li> </ul>	EXP-100 Section 7.7  EXP-103 Section 6.9

	to ensure trade considerations are addressed for prospective new efforts.	
6.1.2 Categorization / Classification of Products	<ul style="list-style-type: none"> <li>• Corporate Compliance utilizes the DDTC and BIS Order of Review to determine proper classification of hardware and technical data. The classification and determinations are memorialized on an up-to-date database.</li> <li>• In the event a concrete determination cannot be made, a Commodity Jurisdiction request will be drafted and submitted as required.</li> <li>• Customs/HTS classification</li> </ul>	<p>EXP-100 Section 7.8</p> <p>EXP-101 Section 8.1</p> <p>EXP-102 Section 12</p>
6.1.3 Know your Customer	<ul style="list-style-type: none"> <li>• LEI primarily deals with few customers most of which are affiliate companies. We require and retain all necessary documentation which specifies all parties to transactions and ensures accuracy of information provided by the customer. Absent complete end-use/end-user information, licenses are not applied for and approval is not provided for export.</li> </ul>	EXP-100 Section 7.3, 7.9
6.1.4 Monitoring of Counterparties	<ul style="list-style-type: none"> <li>• LEI, along with other affiliate companies, utilize Visual Compliance screening software. All LEI employees are required to screen potential customers, suppliers and parties to transactions.</li> </ul>	<p>EXP-100 Section 7.7</p> <p>EXP-101 Section 10</p> <p>EXP-104 Section 6.7</p>
6.1.5 Monitoring Politically Sensitive Transactions	<ul style="list-style-type: none"> <li>• LEI and LEI affiliates must notify Leonardo UK Ltd of any transactions to politically sensitive countries as listed in Annex 1 to Directive 12 Reports are requested and provided on a quarterly basis. Prior to engaging in exports to listed countries, we must receive approval via Leonardo UK Ltd prior to export.</li> </ul>	<p>EXP-100 Section 7.3</p> <p>EXP-101 Section 10</p>
6.1.6 Training	<ul style="list-style-type: none"> <li>• LEI maintains a very comprehensive training program. All new employees complete mandatory compliance training which includes at least Trade Compliance, Special Security Agreement, and Technology Control Plan courses. Training required is</li> </ul>	<p>EXP-100 Section 7.8</p> <p>EXP-101 Section 19</p> <p>EXP-103 Section 6.4</p>

	<p>computer based and varies depending on employee position. It is hosted by Content Enablers and completion is documented online. Annual refresher training is also completed for 100% of employees.</p> <ul style="list-style-type: none"> <li>• Trade specific employees are required to attend at least one conference per year specific to trade compliance (ICPA, SIA, DRS Seminar, etc.).</li> <li>• Ad hoc, program specific training is provided as needed.</li> <li>• Records retained by Corporate Compliance electronically</li> </ul>	
6.1.7 Immediate Notification of Critical Issues	<ul style="list-style-type: none"> <li>• LEI has established procedures for identifying and reporting suspected violations. If a violation occurs, LEI is required by Directive 12 to inform both Leonardo DRS as the holder of DDTC registration and Leonardo UK Ltd.</li> </ul>	<p>EXP-100 Section 10</p> <p>EXP-104 Section 6.8</p>
6.1.8 Assessment of the Trade Compliance Program	<ul style="list-style-type: none"> <li>• LEI has established procedures which require an annual assessment of its trade compliance program. This includes visits to sites for inspection on an as needed basis to assess compliance with established procedure and review of records.</li> <li>• LEI policies, procedures and recordkeeping compliance are periodically reviewed by Leonardo DRS.</li> <li>• LEI acknowledges that our trade compliance program may be reviewed by Leonardo UK Ltd or Leonardo SpA within the confines of regulation and the LEI Special Security Agreement with the Defense Counterintelligence Security Agency.</li> </ul>	<p>EXP-100 Section 11</p> <p>EXP-103 Section 6.15</p> <p>EXP-104 Section 6.12</p>
6.2 Trade Control	<ul style="list-style-type: none"> <li>• Established LEI policies and procedures are in place related to all listed activities.</li> </ul>	
6.2.1 Registration	<ul style="list-style-type: none"> <li>• Leonardo DRS holds necessary Department of State Directorate of Defense Trade Controls registration.</li> <li>• LEI is individually registered with the Bureau of Alcohol Tobacco Firearms</li> </ul>	<p>EXP-100 Section 8</p>

	and Explosives and Department of Commerce Bureau of Industry and Security.	
6.2.2 National and Foreign Licensing	<ul style="list-style-type: none"> <li>LEI policies and procedures fulfill the requirements to obtain and maintain appropriate authorizations and licensing by the competent authorities for employment of Foreign Persons.</li> </ul>	
6.2.3 National Licensing	<ul style="list-style-type: none"> <li>LEI policies and procedures related to trade satisfy the requirements to ensure materials are imported, exported and handled in accordance with national and international law.</li> </ul>	EXP-101, Trade Compliance Manual EXP-102, Trade Compliance Import Manual
7. Recordkeeping	<ul style="list-style-type: none"> <li>LEI has established procedures in place related to recordkeeping consistent with regulation</li> </ul>	EXP-100 Section 9
8. Implementation of the Directive	<ul style="list-style-type: none"> <li>LEI CEO will complete and forward the required "Declaration on the State of Implementation" every 6 months as required.</li> </ul>	
9. Transposition of the Directive	<ul style="list-style-type: none"> <li>LEI has implemented the general rules set out in Directive 12. If the Directive regulations change, policies and procedures will be updated accordingly</li> </ul>	

## 7.2 LEI Corporate Policy

LEI and its subsidiaries are committed to complying with the export and import laws and regulations of the United States of America. No employee, authorized agent or other authorized person acting on behalf of the Company will ship, mail, hand-carry, electronically transmit, or in any other way export-controlled hardware, software, commodity or technical data/technology from the United States without ensuring that the activity in compliance with the requirements of this policy and has been approved for export.

## 7.3 Purpose and Responsibility for Compliance

LEI will comply with all U.S. export control regulations, which are administered by the DOS, the DOC and, in certain special cases, the Department of Treasury.

It is the responsibility of LEI employees to know that U.S. trade laws and regulations exist and to stay aware of any changes to the pertinent regulations and how they may affect our activities. This manual is intended to be a guide, however, the final word on trade compliance is the guidance provided by the U.S. Government. The Company will do its best to inform its employees on export control changes that may

occur from time to time. The Company's employees should also stay up to date on changes of regulations or the interpretations of regulations.

LEI's compliance record is very important to its ability to successfully conduct business. All employees should be advised that, in addition to LEI's insistence that all U.S. export laws and regulations be followed, employees who fail to comply with said laws and regulations could face civil and/or criminal penalties.

All employees, wherever located, must adhere to this policy and shall take appropriate action to ensure that no controlled products, services or technical data coming into their possession is exported or re-exported unless LEI has obtained appropriate authorization from the U.S. Government.

Leonardo DRS Inc. (DRS) is the representational office for Leonardo SpA that assists other U.S. based affiliates and subsidiaries of Leonardo in their various U.S. based businesses, which include businesses supplying defense articles and services to domestic and international customers.

DRS and LEI have entered into an Inter-company Agreement under which LEI agrees to abide by the Company's export compliance policy.

The DRS TCO, will maintain and administer a program intended to help assure compliance with applicable U.S. export control laws.

LEI must report on a quarterly basis, any transaction that directly or indirectly involves a country classified as "sensitive" according to Leonardo SpA Annex 1 to Directive 12.

In delivering products and services internationally, LEI may export products and technology subject to U.S. laws regulating exports and re-exports of U.S. origin commodities and technologies.

- Many of LEI exports are governed by the ITAR, administered by the DDTTC. These exports almost always require prior U.S. Government authorization.
- LEI may also export "dual-use" and certain less sensitive military hardware and technology, falling under the jurisdiction of the EAR, which is administered by the DOC BIS
- LEI also needs to be aware of any special controls on country exports administered by the Department of Treasury and any other special restrictions that may, from time to time, come into force.

LEI is required to immediately report to DRS, any violation or noncompliance with U.S. import/export control laws or regulations.

LEI's exports of products, technology and software will be governed by standardized export clearance procedures. These procedures incorporate steps that LEI must take:

- To determine the export control classification of the product or technology to be exported
- To determine which agency has jurisdiction over the export
  
- To determine whether the export requires a license, end-use and end-user screening
  
- To determine export controls on releases of technology to foreign persons
  
- To obtain necessary licenses to hand-carry products or technology overseas including laptop computers, computer disks or memory devices containing controlled technical data
  
- To maintain a comprehensive training program

These procedures apply to all LEI employees at all domestic and international locations having any business interactions with foreign persons. The LEI Trade Compliance Manual should be read carefully to identify any existing and potential export compliance issues and to learn what obligations employees have under both U.S. law and LEI policy. It should be noted that, even though its operations do not involve typical types of exports (e.g. shipments of products in a carton by sea or air), it may nonetheless be exposed to export compliance issues (e.g. technology transfers).

To comply with U.S. export law, LEI employees need to understand rules that can apply to the following types of situations:

- Disclosing export-controlled information and certain technical data to unauthorized foreign persons, even though they are physically present in the United States, is deemed to be an export under U.S. law. LEI must obtain appropriate authorization from the U.S. government before disclosures are made.
  
- Employees must be aware that the provision of certain technical assistance or certain "services" may require approval from the U.S. government.
  
- In addition to the BIS and DDTC, the Treasury Department maintains a comprehensive embargo against countries such as Cuba, Iran, North Korea, Sudan, Syria, etc. and certain "Specially Designated Nationals" considered to be acting on their behalf.

- LEI must be familiar with their customers and suppliers and with the intended uses for the products and technology they will export. U.S. law places a heavy burden on the exporter to “know their customer/supplier.” This means each transaction must be screened and every employee must be alert for “Red Flags” that may indicate a high-risk transaction.
- Technology, software or goods that come into the United States may become subject to U.S. export control.
- An export can occur via facsimile, email transmission or via the internet. Seemingly innocuous software might be controlled if it contains encryption algorithms.
- If LEI receives a request from any country boycotting Israel or any other country where the U.S. does not participate in the boycott, the Company is required, by law, to report that request to the DOC, even if no action to comply with the request is taken. All Program Registrants are required to notify DRS TCO of any boycott request.
- The United States is unique in imposing controls not only on the original export but also the subsequent re-exports or re-transfers of U.S. origin technology, software or goods from the first export destination to any other destination.
- LEI must consider the export control laws in the establishment of any export sales program or multinational technology transfer arrangement.

The focal point within LEI for addressing export related questions and concerns is Corporate Compliance. [Corporate.compliance@leonardo.us](mailto:Corporate.compliance@leonardo.us)

#### **7.4 Ethical Business Conduct**

Behaving ethically is an essential part of working at LEI as it protects our reputation and makes us a company we can all be proud to be part of. In all our relationships, we will demonstrate steadfast commitment to the company values.

LEI recognizes that beyond the responsibilities common to all U.S. companies, we have a special obligation as a defense contractor to operate in such a way that is consistent with the objectives of the U.S. Government and U.S. foreign policy. Beyond legal compliance, we want to maintain integrity in every aspect of our work. It is the responsibility of every employee to understand the principles and policies that govern the company which are found in LEI Ethics Policy and Business Conduct (HR-107 and CP-100 respectively).

#### **7.5 Trade Compliance Responsibilities and Personnel**

**The CEO and President of LEI, through Corporate Compliance is responsible for:**

- Establishing and overseeing internal corporate compliance policies;
- Designating LEI's Empowered Official(s) to the DRS TCO to review and approve licenses/agreements;
- Establishing an internal licensing and compliance program;
- Retaining oversight and supervision of LEI's violations of export control laws and regulations;
- Retaining the right to contact the appropriate U.S. Government agencies directly, on any issue concerning their company.

**Empowered Officials (22 CFR 120.25)**

The objective of this section is to identify LEI export compliance responsibilities and to clearly set forth individual's obligations and responsibilities.

- The CEO of LEI is responsible for recommending their Empowered Official(s); to the DRS TCO, who, if they concur, will endorse the CEO's recommendation and send an Empowered Official Appointment Letter to the Department of State Compliance and Registration Office.

LEI is required to designate and document Empowered Officials who are formally authorized to handle export control related matters.

- The DRS TCO will periodically recertify the Empowered Officials and provide a copy of that recertification.

Empowered Officials are responsible for reviewing and signing applications, certifications, statements, and other official correspondence on behalf of LEI.

The ITAR provide the following specific criteria for use in designating Empowered Officials. Empowered Official means a U.S. person who:

- Is directly employed by the company or subsidiary in a position having authority for policy and/or management within the company's organization; and
- Is legally empowered, in writing by the company, to sign license applications or other requests for approval on behalf of the company; and
- Understands the provisions and requirements of the various export control statues and regulations and the criminal liability, civil liability, and administrative penalties for their violation; and
- Has the independent authority to investigate any aspect of a proposed export or temporary import by the company, to verify the legality of any transactions and



the accuracy of the information to be submitted, and to refuse to sign any license application or other request for approval without prejudice or other adverse recourse.

Prior to appointment, an EO will complete training as advised by the head of Corporate Compliance. After appointment and within six (6) months of assignment, the EO will attend an initial training seminar sponsored by the Society for International Affairs (SIA) (or equivalent) on ITAR and EAR matters at the intermediate or advanced.

Each EO shall understand the provisions and requirements of the various export control statutes and regulations, and the criminal liability, civil liability, and administrative penalties for their violation.

Each EO will complete at least one advanced trade related training seminar annually.

In instances where an appointed EO displays improper judgment or inadequate controls regarding the management of exports/imports, the EO will be formally evaluated by Corporate Compliance to determine eligibility to continue in that role.

Records of all training completed will be maintained. An annual summary of the EO's previous year's training will be provided to LEI GSC and DRS TCO at their request.

Appointment as an EO may be revoked by LEI Corporate Compliance, the LEI President and CEO or the LEI officer that appointed the EO (or such officer's successor) at their discretion. Challenges to any revocation shall be adjudicated by the head of Corporate Compliance.

EOs, in compliance with 22 CFR Part 126.13, will certify, as required for license applications, agreement approval requests and/or amendments, and all other written authorization requests, whether:

- The applicant or chief executive officer, president, vice-presidents, other senior officers or officials (e.g., comptroller, treasurer, general counsel) or any member of the board of directors is the subject of an indictment for or has been convicted of violating and of the U.S. criminal statutes enumerated in 22 CFR 120.27 of the ITAR since the effective date of the Arms Export Control Act, Public Law 94-329, 90 Stat. 729 (June 30, 1976);
- The applicant or the chief executive officer, president, vice-presidents, or other senior officers or officials (e.g., comptroller, treasurer, general counsel) or any member of the board of directors is ineligible to contract with, or to receive a license or other approval to import defense articles or defense services from, or to receive an export license or other approval from, any agency of the U.S. Government;

- To the best of the applicant's knowledge, any party to the export, as defined in 22 CFR 126.7(e) has been convicted of violating any of the U.S. criminal statutes enumerated in 22 CFR 120.27 since the effective date of the Arms Export Control Act, Public Law 94-329, 90 Stat. 729 (June 30, 1976), or is ineligible to contract with, or to receive a license or other approval from any agency of the U.S. Government; and
- The natural person signing the application, notification or other request for approval (including the statement required by the subsection) is a citizen or national of the United States, has been lawfully admitted to the United States for permanent residence (and maintains such a residence) under the Immigration and Nationality Act, as amended, or is an official of a foreign government entity in the United States.

### **7.6 Dissemination of Export Licensing and Compliance Information**

Corporate Compliance, with the support and assistance of the DRS TCO, will share responsibility for overseeing the dissemination of information relating to export licensing and compliance. This may include, but is not limited to, editions of pertinent export control newsletters, updates to the Office of Foreign Assets Controls List and applicable Federal Register notices. LEI Empowered Officials will provide briefings, as necessary, to corporate executives on the status of the export compliance program.

The LEI EOs will disseminate information to employees whose jobs may involve the export of defense and dual-use products and/or the release of controlled information to foreign parties.

LEI Corporate Compliance will oversee the updating of LEI trade compliance policies and procedures. Further, the LEI Corporate Compliance Empowered Officials will ensure that pertinent export information is kept up to date and that appropriate personnel are informed of changes. It is the responsibility of LEI to maintain the currency of their internal compliance manual.

### **7.7 Internal Compliance Program Guidelines**

#### Management Commitment

- Senior management must establish written export compliance standards for the organization, commit sufficient resources for the export compliance program and ensure senior organization official(s) are designated with the overall responsibility for the export compliance program to ensure adherence to export control laws and regulations.

#### Continuous Risk Assessment of the Export Program

#### Formal written Export Management and Compliance Program

- Effective implementation and adherence to written policies and operational procedures.

Ongoing compliance training and awareness

“Cradle to Grave” Export Compliance Security:

- Screening of employees, contractors, customers, products, and transactions
- Implementation of compliance safeguards throughout the export life cycle including product development, jurisdiction, classification, sales, license decisions, supply chain, servicing channels and post-shipment activity.
- Adherence to recordkeeping regulatory requirements
- Internal and/or external compliance monitoring and periodic audits
- Internal program for handling compliance problems, including reporting export violations
- Completing appropriate corrective actions in response to export violations

### **7.8 Training/Orientation/Awareness Programs**

As the primary individuals responsible for educating and raising trade compliance awareness, Corporate Compliance staff and LEI EOs will attend government and/or private seminars to maintain an expertise in trade compliance matters. Attendance at such seminars should take place at least once a year. To stay current on export compliance developments, LEI EOs may also subscribe to updates of the ITAR, the EAR and relevant trade publications that address export compliance issues (e.g. Defense Trade News, The Export Practitioner, etc.)

LEI Corporate Compliance is directly responsible for managing an ongoing effort to raise the consciousness of employees engaged in export related functions. This may be accomplished by various means including in-house training sessions, electronic training courses, newsletters and by distribution of periodic memoranda regarding export regulations, procedures and current events.

LEI employees whose duties do not relate directly to import/export licensing or compliance, but are determined that their actual duties and functions subject them to export controls, may require specialized training/orientation assistance. Such employees might serve in functions such as international business development, overseas field offices, marketing, traffic, procurement, contracts, engineering, or program departments.

LEI staff working in a capacity directly related to import/export or compliance will receive in-depth training upon assumption of his/her responsibilities. This training

can be accomplished by briefings conducted by trade compliance personnel, attending approved seminar or by an adequate combination of the above methods.

All LEI personnel who have any Foreign Person interaction will receive annual, continuing education regarding trade compliance.

A record of all personnel that have been provided with training or have been sent educational information should be established to record the dates and topics of these activities. This information will be provided to the DRS TCO upon request.

Human Resources and Corporate Compliance must consistently monitor employee turnover to ensure new employees and current employees transferring into export related divisions/functions are clear on their export compliance obligations.

### **7.9 Compliance Responsibilities of Other Departments**

LEI Corporate Compliance and Empowered Officials are responsible for training employees concerning their export compliance responsibilities. The departments listed below may have some direct oversight of LEI's internal compliance program.

**Human Resources** – Human Resources should be made aware of its role in compliance with U.S. export controls and shall work closely with Corporate Compliance to ensure compliance.

Responsibilities:

- Identify and screen all new foreign person employees for which an export of technical data may occur;
- Report to the senior EO all instances of foreign national hires where the foreign national is not a U.S. permanent resident or instances where the status is unclear;
- Track interdepartmental movement of foreign person employees to identify when they may be moving into a department in which an export of software or technical data may occur;
- Assist the EO with obtaining appropriate government export authorizations for foreign person employees;
- As part of the hiring process, ensure new hires receive an export compliance briefing by trade compliance staff;
- Ensure that compliance with U.S. export control laws does not inadvertently violate state or federal labor laws.

**Program Management, Business Development and Planning Department** – In the course of fulfilling this function, the program management, business development and planning departments may encounter export compliance issues.

Responsibilities:

- Inform the Corporate Compliance or EO of business opportunities involving foreign persons so that they can identify any critical trade issues;
- Take into account the length of time it often takes to gain government approval for the sale when writing the contract and the production schedule with the overseas customer;
- Ensure proper export authorization has been obtained to hand carry items (e.g. laptop computers, technical data and proposals – particularly for significant military equipment) outside the United States;
- Advise the EO of international marketing events (e.g. air shows, trade shows) as soon as possible after becoming aware of the event so that the EO can identify export compliance issues;
- Report to the EO, instances of foreign national visitors where a potential transfer of technical information may occur;
- Assist the EO in obtaining required information for any export authorization to be submitted to the U.S. Government for approval;
- Assist the EO in implementing Technical Assistance Agreements (TAA) and other agreements/export authorizations.

**Research and Engineering** – Engineers develop new products and make enhancements of existing products. In the course of fulfilling this function, the engineering department will encounter export compliance issues. They are also in a position to be of invaluable assistance to the EO in determining the export control status of products and technology. Therefore, internal steps and procedures to ensure that they are in compliance should be established.

Responsibilities:

- Assist the EO in determining if information to be disseminated is technical data;
- Assist the EO in classifying products and technology under the USML or CCL.
  - It is important to note that R&D focused on commercial applications could result in the development of items that have military applications and would, therefore, require ITAR controls.

- Assist the EO in preparing technical descriptions to be used in TAAs submitted for DDTC approval;
- Supply technical data, as needed;
- Report instances of foreign person visitors when the potential transfer of technical information may occur;
- Assist the EO in implementing TAAs and other export authorizations;
- Ensure proper export authorization has been obtained to hand carry items (e.g. laptop computers, technical data and proposals – particularly for significant military equipment) outside the United States;
- Factor exportability considerations into product development efforts.

**Contracts and Procurement** – When providing technical information or assistance to foreign customers/suppliers, LEI often need to obtain a State Department export license or execute a TAA or MLA (Manufacturing License Agreement) depending on the nature of the contract/procurement/assistance. In other circumstances, a Commerce license may be required to transfer technical information/technology when providing assistance. Therefore, the Contracts and Procurement Departments must implement procedures to ensure proper export authorizations are in place to provide technical information/services.

**Responsibilities:**

- Identify the potential need for an export license, TAA or MLA;
- If necessary, coordinate with an EO before entering into a contract with a foreign supplier/customer.
- Assist the EO in obtaining required information for any export authorization to be submitted to the U.S. Government for approval;
- Coordinate with the EO to ensure a screen of potential customers/suppliers against denied party lists is conducted;
- Assist the EO in implementing any export authorizations;

**Sales and Marketing** – Individuals in the Sales and Marketing Departments may be the first to encounter certain “Red Flags” indicating export problems with a potential sale. These Departments must be aware that even a proposal may need prior approval before it can be provided to a customer. In light of these requirements, the Departments must ensure that proper internal procedures are in place and that the

EO is involved with the activity as soon as a potential international opportunity is identified.

Responsibilities:

- Inform the EO as soon as an international opportunity is identified to work through export issues;
- Report instances of foreign person visitors when the potential transfer of technical information may occur;
- Coordinate with the EO to ensure a screen of potential customers against denial lists is conducted;
- Coordinate with the EO to become familiar with “Red Flags” with help identify possible risks associated with a potential sale;
- Ensure proper export authorization has been obtained to hand carry items (e.g. laptop computers, technical data and proposals– particularly for significant military equipment) outside the United States;

**Shipping/Traffic Department** – Coordinate with the EO to ensure a screen of potential customers against denial lists is conducted. Individuals in the Shipping and Receiving departments may be the last line of defense in preventing a potential violation. The Shipping Department shall take appropriate action to ensure that no shipment is sent without proper export authorization by instituting formal procedures to that end.

Responsibilities:

- Ensure all export documentation is completed accurately, coordinating with Trade Compliance staff as necessary.
- Check to ensure that the product/paperwork reflects proper export authorizations;
- Run Denied Party Screening all transactions in advance of shipment to ensure compliance..

**Security Department** – U.S. export control regulations may restrict transfers of technology to foreign persons. Security personnel should implement internal control procedures to ensure foreign visitors are identified prior to entering a controlled facility.

Responsibilities:

- Ensure foreign visitors have been given proper export authorization by the EO if necessary;
- Maintain information outlining LEI and basic requirements of export controls regarding transfers of technical information and services to foreign persons;
- Provide badging, escorts and security briefings to visitors;
- Physical and technological security within the controlled facility.

## **8.0 Registration**

### **8.1 Requirements**

In accordance with 22 CFR 122.1, “Any person who engages in the United States in the business of either manufacturing or exporting defense articles or furnishing defense services is required to register with the DDTC. For the purposes of this subchapter, engaging in the business of manufacturing or exporting defense articles or furnishing defense services requires only one occasion of manufacturing or exporting a defense article or furnishing a defense service. Manufacturers who do not engage in exporting must nevertheless register.”

The DRS TCO is registered with DDTC as the “Central Registrant” for all Leonardo SpA owned companies in the United States and includes LEI to the extent we engage, intend to engage or may in the future engage in export activities. (See *Section 8.4 “Material Changes” below*)

### **8.2 Exemptions**

Registration is not required for the following persons:

- Officers and employees of the United States Government acting in an official capacity.
- Persons whose pertinent business activity is confined to the production of unclassified technical data only.
- Persons all of whose manufacturing and export activities are licensed under the Atomic Energy Act of 1954, as amended.
- Persons who engage only in the fabrication of articles for experimental or scientific purpose, including research and development.

### **8.3 Fee structure**

Fees must be paid by persons required to register with DDTC in accordance with Section 38 of the Arms Export Control Act (AECA) (22 U.S.C. 2778). ITAR registration fees are set forth in Section 22 of the ITAR (22 CFR 120-130). Persons required to register include manufacturers, exporters and brokers of defense articles and defense services.



The State Department has adopted a **three-tier registration fee schedule**. The schedule is as follows:

**The first tier** is a set fee of \$2,250 per year. This applies to new registrants. It also applies to registrants renewing their registration who did not submit any applications during the twelve-month period ending 90 days prior to the expiration of their current registration.

**The second tier** is a set fee of \$2,750 for registrants renewing their registrations who have submitted and had final action taken on ten or fewer applications during a twelve-month period ending 90 days prior to the expiration of their current registration.

**The third tier** is a calculated fee for registrants who have submitted and had final action taken on more than ten applications during the twelve-month period ending 90 days prior to the expiration of their current registration. For these registrants, the fee calculation is \$2,750 plus \$250 times the total number of applications over ten. To ensure fairness to those registrants in this third tier who may have many applications but all of a low value, there is a provision for a reduced fee if the fee calculated above is greater than 3 percent of the total value of all of their applications. In such cases, the fee will be either 3 percent of the total value of all applications or \$2,750, whichever is greater.

Applications used to calculate the fee include DSP-5s, 73s, 61s, 85s, 119s, 53s and agreements and their amendments. Cases returned without action and denied cases are not included in the fee calculation. Submissions required under 22 CFR 123 through 126 which do not require response from the State Department (e.g. sales reports) are not counted when determining the registration fee, nor are disclosures or requests for a commodity jurisdiction determination.

To obtain a list of the licenses counted by DDTC, contact the Response Team. All requests for license lists must be submitted in writing (email or fax) and will be provided to the company within 2 business days.

#### **8.4 Material Changes**

Pursuant to §122.4, registrants must notify DDTC of all material changes to their registration file. These changes include name changes of domestic or foreign operations, restructuring, merger/acquisitions and/or registration code consolidations. Any and all changes incurred by the Program Registrants must be sent to the DRS TCO for submission to DDTC on behalf of the Central Registration. In no case will LEI be permitted to file any changes directly with DDTC.

#### **8.5 Registration Renewal**

DDTC will send a written notification to the DRS TCO, as the Central Registrant, of the fee to be paid at least 60 days prior to the expiration date of current registration. This notification will be addressed to the same senior officer and address on the

current registration unless a material change has been submitted per §122.4. The responsibility for ensuring that the registration is submitted at least 30 days prior to expiration remains with the registrant.

If a registrant believes an error has been made in calculating its fee, the registrant may submit a written request explaining the basis for the challenge to the attention of the Director, Office of Defense Trade Controls. If the registrant's registration is set to expire within 30 days or less, registrants should submit the challenge to DDTC with a completed renewal registration submission fee of \$2,250 to ensure registration does not expire while the question is being resolved.

The procedures and requirements regarding registration, renewal and registration maintenance can be found in 22 CFR 122.

[http://www.pmdt.c.state.gov/regulations\\_laws/documents/official\\_itar/ITAR\\_Part\\_122.pdf](http://www.pmdt.c.state.gov/regulations_laws/documents/official_itar/ITAR_Part_122.pdf)

## **9.0 Recordkeeping**

### **9.1 Access to Records**

A person who is required to register as an exporter of defense articles and services under the ITAR or is an exporter of dual-use items falling on the DOC BIS CCL must maintain records concerning the manufacture, acquisition, and disposition of these defense or dual-use articles; the provision of defense services; and information on political contributions, fees or commissions, as required by Part 130 of the ITAR.

- All such records must be maintained for a period of five years from the date of last activity.

These records shall be available at all times for inspection and copying by the DDTC (or a person designated by the Director), designated officials of the DOC BIS, or the Commissioner of the U.S. Customs Service (or a person designated by the Commissioner).

LEI has established procedures and guidelines to ensure complete records (e.g. "cradle to grave") and an audit trail on every transaction.

### **9.2 Records to Be Maintained**

For record keeping purposes, the list of documents to be retained for five years past expiration includes (but is not limited to) the following:

- License applications and supporting documentation for all permanent and temporary exports covered under a DSP-5, DSP-73, or DSP-85 and temporary imports covered under a DSP-61;
- Approval requests and supporting documentation for Technical Assistance Agreements, Manufacturing License Agreements or Distribution Agreements;

- Letter approvals or determinations;
- Supporting documentation for the use of license exemptions, including a description of the unclassified technical data, the name of the recipient and end-user, the date and time of the export, and the method of transmission;
- Electronic Shipper's Export Declarations (AES EEI);
- Invoices;
- Declarations of destination;
- Delivery Verifications;
- Registration Applications;
- Purchase Orders;
- Foreign Import Certificates;
- Bills-of-Lading;
- Airway Bills;
- Non-transfer and Use Certificates (DSP-83);
- Any information required or submitted under the requirements of Part 130 of the ITAR covering political contributions, fees, and commissions. This requirement applies whether acting in the capacity of an applicant, supplier, or vendor;
- Records of denied persons screening;
- Correspondence of any type, including e-mails, related to transfers of controlled technology;
- Production records;
- Any other documents used in the regulation or control of a defense article, defense service or technical data, for which a license or approval is required.
- All records relating to imports (although record retention periods vary).

## **10.0 Violations, Penalties, Administrative Inquiries, Voluntary Self Disclosures (VSD), Voluntary Disclosures (VD), and Disciplinary Action**

### **10.1 General**

The U.S. Government continues to place greater compliance demands on exporters. The necessity for vigilance on the part of exporters must grow accordingly if exporters are to remain in good standing and avoid the increasingly severe fines and penalties being imposed on them if they are lax about compliance.

Since this manual has already addressed the multitude of concerns exporters should have with respect to compliance, such as licensing requirements, order screening, proper shipping procedures, record keeping requirements, and the necessity for internal control regimes, this section will place special emphasis on the sorts of activities that constitute violations under the ITAR and the EAR as well as the penalties that employees might be subjected to.

All LEI employees must immediately report any violation of the AECA, EAA or the OFAC control lists to Corporate Compliance. Corporate Compliance will immediately inform the CEO and Government Security Committee of LEI of any violation. It is policy LEI will initiate an immediate review of any potential violation to determine if one took place, and if so, what corrective actions are required to prevent future violations and to protect U.S. controlled technology. It is the joint responsibility of the CEO of LEI and Corporate Compliance to oversee this review process and to determine if a VSD (BIS) or a VD (DDTC) should be initiated.

In addition, Leonardo SpA must be notified in a timely manner via DRS of potential reportable violations identified by LEI consistent with Directive 12.

Disclosure awareness is part of the trade compliance training and it's approached as a value-added step for protecting the company and the nation's security. Openness is encouraged throughout the chain of command.

The steps involved in making a voluntary disclosure are:

- Cease all activity regarding the potential disclosure
- Initiate the investigation using any available personnel necessary to be thorough
- Evaluate the violation and its root causes
- Take correction action
- Submit the disclosure to the DDTC

## 10.2 Activities Treated as Violations

The following are examples of some trade-related activities that constitute violations of the ITAR and/or EAR:

- Exporting or re-exporting controlled items or technology without the appropriate export authorization;
- Furnishing a defense service without proper authorization;
- Misrepresentations, false statements, or omission of pertinent facts;
- Exporting in violation of a denial order;
- Exporting or re-exporting to embargoed countries, prohibited end users or for unauthorized end uses;
- Proceeding with an export transaction with knowledge that a violation has occurred or is about to occur;
- Improper certifications.
- Violation of conditions of approval;
- Improper shipping procedures.

Violations, even technical ones, can lead to the imposition of a variety of fines and penalties. These vary depending on the severity of the violation and whether they occur with respect to ITAR or EAR controlled activities.

## 10.3 Violations of the ITAR

**Information regarding violations of the ITAR, including penalties and fines, can be found in 22 CFR Part 127.**

[http://www.pmdotc.state.gov/regulations\\_laws/documents/official\\_itar/ITAR\\_Part\\_127.pdf](http://www.pmdotc.state.gov/regulations_laws/documents/official_itar/ITAR_Part_127.pdf)

## 10.4 Violations of the EAR

**Information regarding violations of the EAR, including penalties and fines, can be found in 15 CFR Part 764.**

<http://www.access.gpo.gov/bis/ear/pdf/764.pdf>

In addition, export violations can lead to negative publicity in the press, which could result in poor public relations and possible loss of business.

**10.5 Maintenance of Internal Controls**

It is critical that LEI personnel be concerned about remaining compliant in their day-to-day trade-related activities. This includes being concerned about such things as with whom you conduct negotiations, not releasing controlled technical data without the proper authorization, maintaining complete and accurate records, usage of fax machines, e-mail, and telephones, and following proper shipping procedures.

Any questions with regard to the aforementioned should be addressed to LEI Corporate Compliance or EO.

Should an inadvertent violation of the regulations occur, it is important that it be brought to the attention of management as soon as possible. The USG encourages exporters to file disclosures by those that believe they may have violated a provision of the EAA or AECA. Such disclosures may be considered mitigating factors in determining penalties if any are to be imposed.

**10.6 Guidelines for Conducting Administrative Inquires**

Upon notification of a violation, Corporate Compliance will conduct a preliminary administrative inquiry utilizing the below guidance. If a violation of any export provision cannot be ruled out after the preliminary inquiry, the appropriate authority should immediately be notified of the violation.

Corporate Compliance staff may (depending on the situation) use the following guidance (or portions thereof) to perform a thorough Administrative Inquiry (AI) of loss, compromise or suspected compromise of export-controlled information or any other violation of any export control provision of the Arms Export Control Act (AECA), or any regulation, order, license, or other authorization issued under the authority of the AECA.

**Facility Information:**

Name:  
Address:  
DDTC Registration Code:  
Name and Title of Person Conducting the Inquiry

**Essential Facts:**

- (1) What is alleged to have happened?
- (2) How was the violation discovered and who reported it? To whom was it reported and when?
- (3) What information was involved and what is the USML classification? (Obtain a listing of the material, if appropriate.)

- (4) Identify the User (Government) Agency and associated prime/subcontractors who originated any classified information, if applicable.
- (5) Identify the Government Contracting Activity/prime contractor that released any classified information to the contractor and the associated contract numbers, if applicable.
- (6) Identify specific ITAR/EAR provisions violated. Indicate the company Trade Compliance Manual reference, its level of adequacy, and whether it was complied with. If applicable, attach a copy of the applicable portions of the manual that reflect promulgation of the rules and regulations of the manual and/or ITAR/EAR.

**Determination of Compromise:**

- (1) When, for how long, and under what circumstances was the export-controlled information vulnerable to unauthorized disclosure?
- (2) If an unauthorized person(s) gained knowledge of export-controlled information, describe how the knowledge was gained and provide identifying data about the individual.
- (3) Are there other import/export violations at this facility pertaining to this contract, technology or information? If so, is there a pattern? Does the pattern include foreign persons/visitors?
- (4) Identification of the individual(s) interviewed in connection with the violation. Interviews for each person should be recorded in a narrative format, reflecting their position at the facility and the date of the interview.
- (5) The Export Coordinator/Empowered Official's conclusion regarding the compromise, suspected compromise, or loss of export-controlled information.

**Determination of Culpability:**

- (1) Identifying data (name, title/position, mailing address, email address, telephone and facsimile numbers) of the individual(s) responsible for the incident.
- (2) The interview of the individual(s) responsible for the following must stress the following:
  - a. Subject's level of awareness of trade compliance regulations. Include when and how the Subject became aware of the information.

- b. Details of all prior trade compliance briefings, seminars, etc., which contributed to Subject's knowledge of trade compliance requirements.
  - c. Subject's knowledge of trade compliance requirements and awareness of the company's practices and how he or she became aware of them. Provide a description of the facility's trade compliance education and training program. Attach copies of any and all records concerning trade compliance briefings (written and oral) provided to the Subject to prove the extent of Subject's knowledge of the requirements for the proper handling of export controlled information. If available, include dates, times and information provided in the trade compliance briefings, as well as copies of any debriefing statements.
  - d. A detailed review of each document, item or system involved in the violation to include Subject's knowledge of where they came from; where each was found and under what circumstances. Conduct follow-up questioning on any disparities between Subject's statement and known facts.
  - e. The reason(s) Subject acted as he or she did in this particular incident.
  - f. Was Subject aware that he or she was violating trade compliance guidelines at the time of the incident? (Was the violation intentional or inadvertent?)
  - g. Has the Subject had previous import/export violations? Attach copies of previous reports of applicable.
  - h. Subject's future intentions regarding the handling and safeguarding of export-controlled material.
- (3) The Empowered Officials evaluation of the individual's culpability.

**Corrective Actions:**

- (1) What actions were taken to protect the export-controlled information prior to the inquiry? When was this action taken and by whom?
- (2) Will disciplinary action be taken against the individual? If not, why not?
- (3) Include any follow-up actions.
- (4) The Export Coordinator should include an evaluation of the corrective actions taken to preclude future violations.



**Report to the Defense Counterintelligence Security Agency**

Violations that involved the possible release of classified information or hardware must be reported to the Facility Security Officer in accordance with the requirements of the NISPOM.

**10.7 Disciplinary Action**

Supervisors are responsible for maintaining compliance with LEI standards of employee conduct. All employees will be subject to disciplinary action for failure to fulfill their trade compliance duties and responsibilities at the level required, including observance of work rules and standards of conduct and applicable policies. Failure to meet these standards can subject an employee to an official reprimand, suspension or termination.

**10.8 Reporting and Handling Suspected Violations**

Any questionable, unauthorized or illegal trade-related activities, whenever discovered by any employee, must immediately be reported to Corporate Compliance via the mechanisms set forth below for review and evaluation.

Any employee, who reports information on a suspected violation in good faith, shall not be subjected to retaliation for bringing the issue to the attention of management. Any instances of suspected retaliation should be reported immediately to the HR and Corporate Compliance.

Employees who suspect that a violation has occurred, is occurring or is about to occur should report details on the suspected violation to one of the following individuals:

- The cognizant EO
- Corporate Compliance
- The DRS TCO

When reporting a suspected violation, provide sufficient information to allow company personnel to pursue an appropriate course of action in the event of a prior, actual or potential, violation.

The suspected violation should be reviewed as expeditiously as possible. Corporate Compliance will determine whether the reported matter constitutes a violation.

**No violation:** If a determination is made that a violation has not occurred or is not occurring, the Empowered Official will explain the decision to the employee that made the original report.

**Violation:** If a determination is made that a violation has occurred or is occurring, Corporate Compliance shall take the following steps:

- Ensure that the activity that constitutes a violation is immediately stopped by issuing written direction to the appropriate personnel to cease the activity.
- Obtain confirmation from the appropriate personnel that the activity has been stopped.
- Take corrective actions to remedy the situation (e.g. modify existing procedures or develop new procedures as appropriate, provide refresher training, etc.)
- Consult with the DRS TCO, as needed, on other actions to be taken, including the potential submittal of a disclosure to USG authorities.

### **11.0 Audit/Assessments**

It is LEI's goal to ensure compliance with all U.S. laws and regulations, the LEI Trade Compliance Manual and the Inter Company Agreements between LEI and the DRS TCO.

For the purpose of assessing compliance with the provisions of the applicable laws and regulations, munitions licenses and other authorizations, LEI will arrange and facilitate periodic trade compliance assessments of LEI and affiliate facilities who have international trade activity.

After acquiring or adding a subsidiary to LEI and adding the subsidiary to the DRS central registration, LEI will conduct an internal review of trade compliance resources and establish the necessary actions to ensure that sufficient resources are dedicated to trade compliance, including the use of additional resources from compliance-trained employees on a part time basis, as needed.

LEI will provide quarterly status reports to the Government Security Committee regarding LEI's trade compliance program and status to determine if any enhancements or resource levels require adjustment and their impact or benefit to ensuring trade compliance.

In fulfilling trade compliance obligations, the head of Corporate Compliance, at his/her discretion, may present any export compliance related issue directly to LEI's CEO and if necessary, the cognizant USG licensing agency.

The head of Corporate Compliance will brief the GSC as necessary concerning any findings and recommendations, Corporate Compliance's response and implementation of the same, and the status of trade compliance generally within LEI

Corporate Compliance shall have full and complete access to relevant employees, books, records, audits, reports and facilities relating to compliance including pertinent

export authorizations, licenses, guidance relating to the export of goods, technical data and services, to include classified information.

All LEI employees shall cooperate with any reasonable request of Corporate Compliance and shall take no action to interfere with or impede their ability to monitor LEI's compliance with U.S. laws and regulations

The purpose of audit and assessments:

- Ensure that LEI is in compliance with U.S. regulations and locations have current information regarding trade compliance regulations, as these regulations are subject to change;
- Determine that all exports of products and technical data (including electronic, visual and oral release) have been licensed properly and that any suspected or actual violations have been reported to Corporate Compliance;
- Ensure that appropriate routines and procedures (Internal Control Programs) have been implemented to control exports and imports of commodities and technical data including communications to foreign affiliates and foreign nationals; and
- Ensure that products exported have been classified properly among and within the various jurisdictions; and
- Ensure that imported products have been classified and entered properly in accordance with U. S. Customs and Border Protection Regulations.

## **12.0 Exceptions**

Exceptions to this policy require the prior written approval of the Chief Executive Officer of LEI or the head of Corporate Compliance.

## **13.0 Records**

All records generated by this procedure are maintained in accordance with the company's document retention procedure.