

Update to Policy FAQs

Q: Does saving ITAR controlled technical data on the cloud constitute an export per ITAR § 120.17?

A: A cloud service provider's receipt of effectively encrypted technical data uploaded by the U.S. owner, stored and managed on a cloud service network consisting of only U.S.-based servers, administered only by U.S. persons, and appropriately configured to enable the U.S. technical data owner to control access to such data does not constitute an export under the ITAR.

Post Location: <http://www.pmdtc.state.gov/faqs/ecr.html#i> – Under “Technical Data”

Q: Are public universities eligible to use the ITAR § 125.4(b)(9) exemption?

A: If a public university is incorporated under applicable U.S. or state laws, such public universities are eligible to use the ITAR § 125.4(b)(9) exemption.

Post Location: <http://www.pmdtc.state.gov/faqs/ecr.html#e> – Under “Exemptions”

Q: Which office (DDTC or RSAT) should a foreign end user contact if they are not certain of the original procurement method of a defense article (FMS or DCS) and is seeking a third party transfer or reexport/retransfer authorization?

A: Where a foreign end user is not certain of the original procurement method, RSAT is the appropriate office for the foreign end user to submit a request (PM_RSAT-TPT@state.gov). In such cases, RSAT will process the request and coordinate with DDTC. Information on RSAT and the third party transfer process can be found at www.state.gov/t/pm/rsat/index.htm. Whether for RSAT or DDTC, to facilitate adjudication of the request, we ask that the foreign end user provide a best-faith statement as to what it believes to be the original acquisition method (i.e., via DCS or FMS), a summary of steps taken to investigate the acquisition of the article(s), and any other information that may be helpful.

Post Location: <http://www.pmdtc.state.gov/faqs/ecr.html#j> – Under “Retransfer”

Q: Is the term "at the company's facilities" in ITAR § 120.39(a)(2) include only a company's headquarters, or also includes travel to other facilities?

A: If a contracted employee is employed ordinarily at their company's facilities, they may also provide services for the company's clients outside the company's facilities. Such activities are within the definition of a regular employee in ITAR § 120.39(a)(2).

Post Location: <http://www.pmdtc.state.gov/faqs/ecr.html#m> – Under “Terminology”

Q: What is meant by "commercial invoice" in ITAR § 123.9(b)(1)?

A: The term "commercial invoice" references the document that moves with the freight.

Post Location: <http://www.pmdtc.state.gov/faqs/ecr.html#a> – Under “Automated Export System”

Update References to ITAR § 124.16 (Either Remove or Change Reference Instead to § 126.18(d)) at <http://www.pmdtc.state.gov/faqs/DCTCN.html#11>

1. **Remove FAQ Entirely:** Can a foreign party choose to use § 126.18 for an individual that qualifies for § 124.16? (<http://www.pmdtc.state.gov/faqs/DCTCN.html>)
2. **Update References Instead to § 126.18(d):** Can § 124.16 [change to “§ 126.18(d)”] be used to authorize dual/third country nationals of § 124.16 [change to “§ 126.18(d)(2)”] countries employed by the applicant or other US Signatories to the Agreement? (<http://www.pmdtc.state.gov/faqs/DCTCN.html>)

3. **Update Reference Instead to § 126.18(d)**: When an agreement involves the transfer of classified defense articles, can § 124.16 [*change to “§ 126.18(d)”*] still be used to authorize dual/third country nationals access to only unclassified defense articles associated with the agreement?

(<http://www.pmddtc.state.gov/faqs/DCTCN.html>)

4. **Remove FAQ Entirely**: Per § 124.12(a)(10) "This agreement (does/does not) request retransfer of defense articles and defense services pursuant to § 124.16." Should this statement include a reference to technical data? (<http://www.pmddtc.state.gov/faqs/DCTCN.html>)

New Blue Lantern FAQs

Post Location: New Subheading “Blue Lantern Program” at

<http://www.pmddtc.state.gov/faqs/index.html>

Q: What is the Blue Lantern program?

A: Established in 1990, the Blue Lantern program monitors the end-use of defense articles, technical data, services, and brokering activities exported through commercial channels and subject to Department of State licenses or other approvals under section 38 of the Arms Export Control Act (AECA) (22 U.S.C. 2778) and the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120-130).

Q: Is end-use monitoring mandated by U.S. law?

A: Yes. The Blue Lantern program fulfills those requirements stipulated in section 40A of the AECA (22 U.S.C. 2785) and delegated to the Department of State in Executive Order 13637.

Q: What does the Blue Lantern program entail?

A: Blue Lantern end-use monitoring includes pre-license, post-license, and post-shipment checks to verify the bona fides of foreign consignees and end-users, confirm the legitimacy of proposed transactions, and provide reasonable assurance that 1) the recipient is complying with the requirements imposed by the United States Government with respect to use, transfers, and security of defense articles and defense services; and 2) such articles and services are being used for the purposes for which they are provided.

Q: Who manages the Blue Lantern program?

A: The Blue Lantern program is managed by the Regional Affairs and Analysis Division (RAA), Office of Defense Trade Controls Policy (DTCP), Directorate of Defense Trade Controls (DDTC), Bureau of Political-Military Affairs (PM) at the U.S. Department of State. Generally, checks are conducted by Department of State personnel working from U.S. embassies and consulates worldwide.