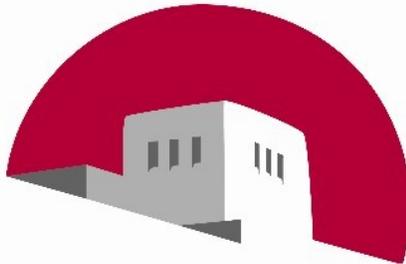


THE UNIVERSITY OF NEW MEXICO  
MAIN CAMPUS

# OFFICE OF EXPORT CONTROL

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GUIDELINES FOR PURCHASING, INVENTORY  
CONTROL, AND UNIVERSITY SERVICES  
(SURPLUS PROPERTY)



THE UNIVERSITY *of*  
NEW MEXICO

ADELICIA GUNN  
PROGRAM SPECIALIST

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## INTRODUCTION

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The University's Purchasing, Inventory Control, University Services (Surplus Property) departments are responsible for ensuring that purchasing and property management processes are accomplished ethically and in compliance with all applicable laws, regulations, and policies, including U.S. Export Controls. The following guidelines articulate the functions of the aforementioned departments that call for procedures to ensure compliance with export controls.

Training on export controls should be provided to Purchasing, Inventory Control, University Services (Surplus Property) employees as necessary to ensure a current and cohesive understanding of the regulatory requirements and the processes and procedures assistance with their unit.

Any questions about the content of these guidelines or exports/imports in general should be sent to the Office of Export Controls.

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## UNM'S COMMITMENT TO EXPORT CONTROL COMPLIANCE

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The University of New Mexico (UNM) is committed to complying with all applicable export control laws and regulations. Export controls have become increasingly prevalent in the modern research community, resulting in the need for appropriate university compliance and oversight. The purpose of the UNM Export Control Compliance Program is to provide this oversight and help faculty, staff and students understand their responsibility for export control compliance.

Export controls apply to a wide variety of activities at the university. These regulations apply to sponsored research, non-sponsored research, international travel, international collaboration, purchasing, property accounting and disposal, material transfer, non-disclosure agreements, I- 129 petitions, and transactions with certain foreign countries, entities or individuals.

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## EXPORT CONTROL REGULATIONS

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Export control laws are federal regulations that govern how certain information, technologies, and commodities can be transmitted overseas to anyone — including U.S. citizens — or to foreign nationals on U.S. soil.

Most exports do not require government licenses. However, licenses are required for exports that the U.S. government considers “license controlled” under the following:

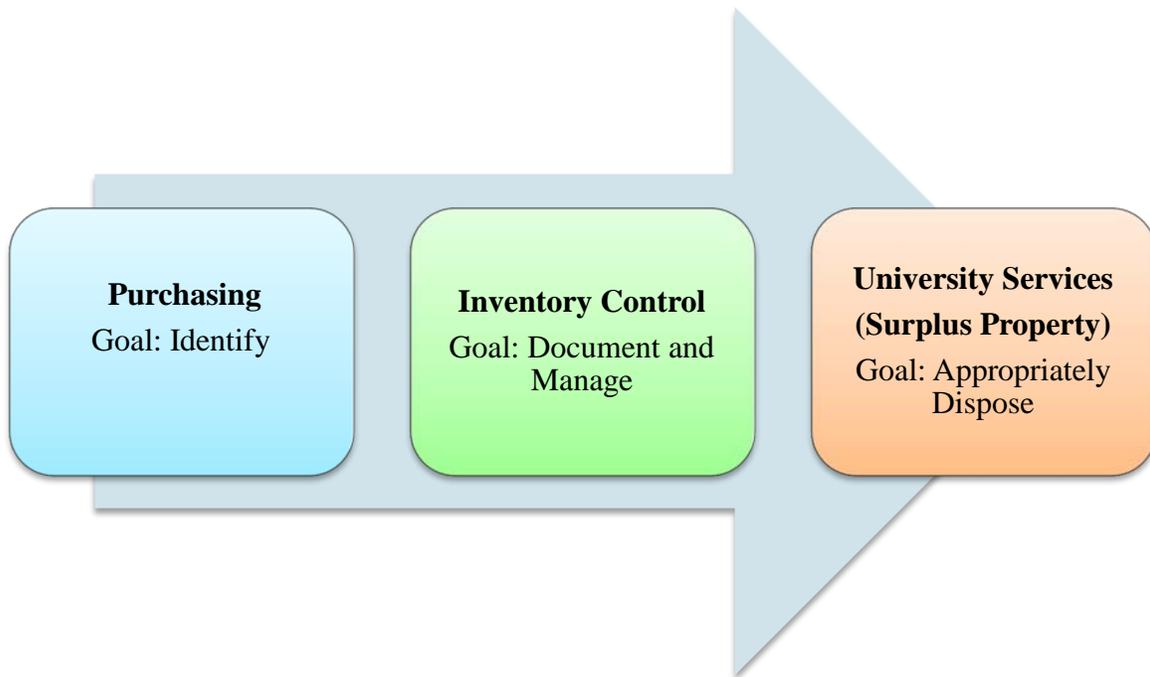
- Export Administration Regulations (EAR) control items that have both a commercial and potential military use
- International Traffic in Arms Regulations (ITAR) control military items and defense services
- Office of Foreign Assets Control (OFAC) administers and enforces economic and trade sanctions to protect foreign policy and national security goals

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### **LIFE CYCLE OF UNM CONTROLLED PROPERTY**

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- The ultimate goal of this process is to create a life cycle of UNM controlled property. The intention is appropriately identify controlled items, document and manage their location on campus and who has access to the items, and then properly dispose of items in a manner that is compliant with U.S. Export Controls.



## PURCHASING OF SCIENTIFIC OR TECHNICAL EQUIPMENT

Purchasing scientific or technical equipment is essential for the advancement of the University’s research mission. The following guidance is intended to provide for the timely flow of information between the Office of Export Control and the Purchasing Department.

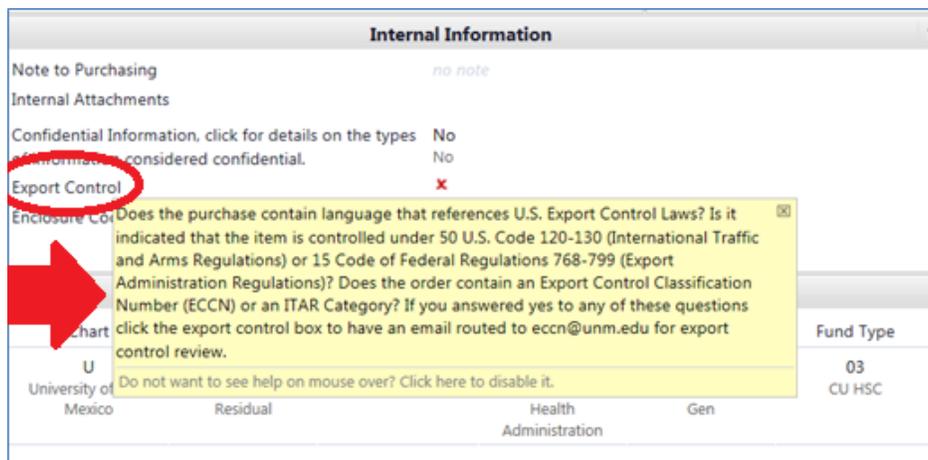
### LoboMart and P-Card:

Included in LoboMart and P-Card Policies and Procedures is guidance and questions regarding the export control classification of the item to be purchased. It is the responsibility of the requisitioner or PCard holder to perform appropriate due diligence in order to determine if the item to be purchased is export controlled if the following conditions apply:

- The equipment/hardware is for an export controlled project. (A Technology Control Plan is in place for the project).
- The equipment/hardware will be shipped or taken outside the U.S. or
- The equipment/hardware has an obvious military or space capability, is specially designed for military use and/or is a type of laser, sensor, infrared camera, or high-performance computer.

If they need assistance in this process they may contact the UNM Main Campus Export Control Officer at [export@unm.edu](mailto:export@unm.edu) or 277-2968. If the requisitioner determines that the item is export controlled they would select yes LoboMart and an export control review would be conducted.

### Screenshot of LoboMart:



## **Purchasing Review of Terms and Condition:**

When purchasing scientific or technical equipment, a source of vendor may include language indicating that the item is subject to U.S. Export Controls. This language does not necessarily mean that the item is a controlled item. The language may come in a form similar to the sample language below:

*Purchaser certifies that if products purchased pursuant to such purchase order are directly or indirectly exported, re-exported or transferred, Purchaser shall comply with all applicable global export control laws and regulations, including but not limited to regulations implemented under the Wassenaar Arrangement or other multilateral export control regimes, the U.S. Export Administration Regulations (EAR), and U.S. International Traffic in Arms Regulations (ITAR). In particular, Purchaser declares that it will not: (1) use the products for any end-use activities restricted under Part 744 of the EAR or any equivalent end use based restrictions (to the extent applicable to the country or end user); or (2) export, re-export or transfer the products to any person, entity, and/or country, in each case without first obtaining written authorization from the applicable government agency (if required).*

If similar language is found, the Purchasing Officer should send an email to the Office of Export Control at [eccn@unm.edu](mailto:eccn@unm.edu) along with a description of the item being purchased, the name of the UNM employee and department requesting the purchase so that a review can be conducted to determine if the item(s) is/are controlled.

Occasionally a source or vendor may provide information about the particular product's export control status. Most commonly, this information will take the form of an export control classification number (ECCN).

For example, a vendor may state that a particular item is controlled by 6A005. If this information is provided, the Purchasing Officer should send an email to the Office of Export Control at [eccn@unm.edu](mailto:eccn@unm.edu) along with a description of the item being purchased, the name of the UNM employee and department requesting the purchase.

The Export Control Officer will review the purchasing documents and determine if a Technology Control Plan is warranted. If warranted, the Export Control Officer will work directly with the department and/or UNM employee to develop and implement this plan.

Occasionally, Purchasing may discover information stating that the item(s) being purchased are subject to the ITAR3, USML4, or MTCRA 5. This information may contain any of the foregoing acronyms, and it may also contain a specific category or paragraph (i.e. This item is found on the USML Cat. VIII). This type of information indicates that the article involved could be a defense article. The purchase should be

halted and the Office of Export Control should be notified in the event that this type of language is in a purchasing contract. The Export Control Officer will work directly with the department and/or UNM employee to develop and implement a Technology Control Plan to safeguard the item(s).

It is also possible that a vendor may provide language indicating that the equipment is not for public purchase. Contract terms may specify that the equipment is not approved for public consumption, unlimited distribution, etc. In the event that this type of language is included in a contract it should be flagged and sent to the Office of Export Control for review, as this may be a vendor's way of indicating that there are export control restrictions on the particular item.

### **UNM Purchase Order Standard Terms and Conditions:**

Included in the Purchase Order Standard Terms and Conditions are two sections with export control language.

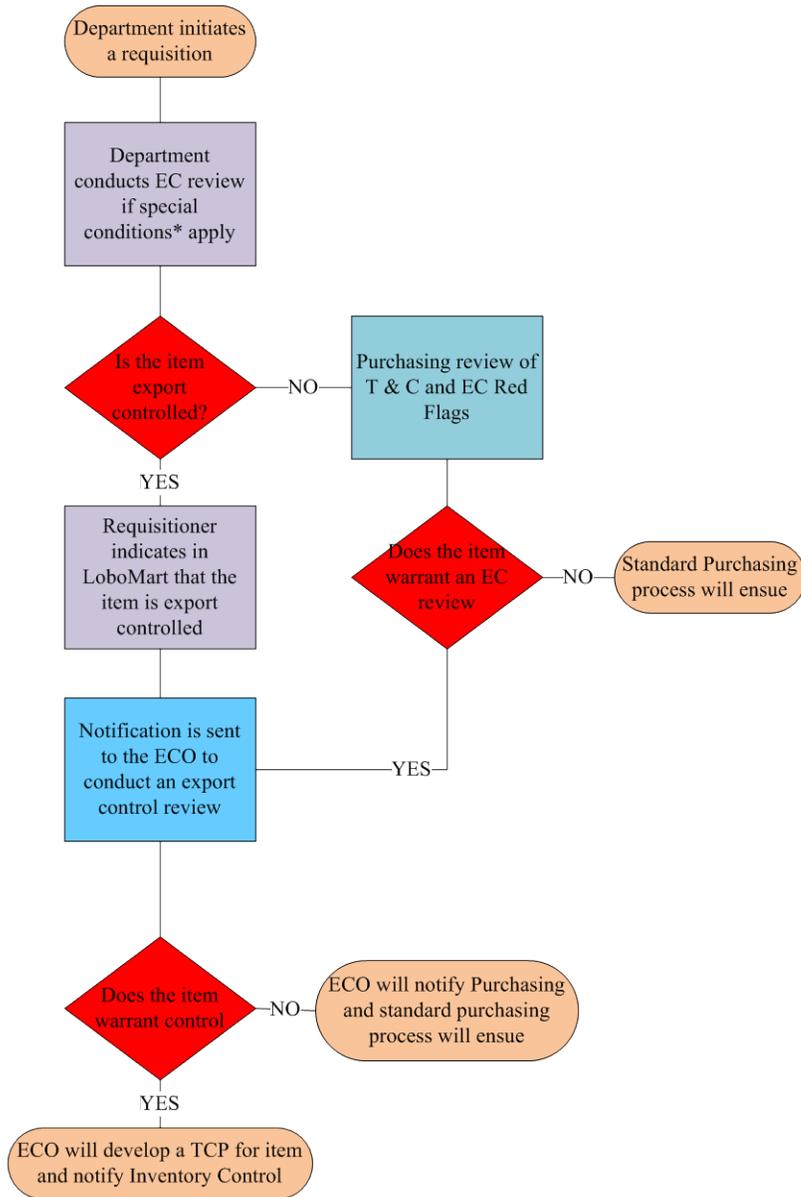
*7 \*\*ECCN REPORTING REQUIREMENT: Contractor acknowledges that providing goods and services under this Purchase Order is subject to compliance with all applicable United States laws, regulations, or orders, including those that may relate to the export of technical data or equipment, such as International Traffic in Arms Regulations ("ITAR") and/or Export Administration Act/Regulations ("EAR"). Contractor agrees to comply with all such laws, regulations and orders as currently in effect or hereafter amended. Contractor shall not disclose any export-controlled information, or provide any export-controlled equipment or materials to UNM without prior written notice. In the event that UNM agrees to receive such export-controlled information, equipment or materials, Contractor shall: (i) include the Export Control Classification Number (ECCN) on the packing documentation, and, (ii) send an electronic copy of the ECCN number and packing documentation to: ECCN@UNM.EDU.*

*8 \*\*ELIGIBILITY FOR PARTICIPATION IN GOVERNMENT PROGRAMS. Each party represents that neither it nor any of its management or any other employees or independent contractors or Principals as defined in CFR Section 180.995 who will have any involvement in the services or products supplied under this Agreement, have been excluded from participation in any government healthcare program, debarred from or under any other federal program (including but not limited to debarment under the Generic Drug Enforcement Act), or convicted of any offense defined in 42 U.S.C. Section 1320a-7, and that each party, its employees and independent contractors are not otherwise ineligible for participation in federal healthcare programs. Further, each party represents that it is not aware of any such pending action(s) (including criminal actions) against each party or its employees or independent contractors. Each party shall notify the other immediately upon becoming aware of any pending or final action in any of these areas*

### **Debarment Screening:**

It is imperative to ensure that the institution is not buying items and/or services from entities that are debarred by the Federal Government. An initial screening will be conducted by Vendor Maintenance upon setting up the vendor. The primary screening is conducted by HSC compliance. They will receive regular uploads of the Vendor Master list and run them through screening software. A debarment screening must be conducted prior to funds being transferred to the entity from the University.

**Purchasing Flow Chart:**



Special Conditions
<ul style="list-style-type: none"> <li>● The equipment/hardware is for an export controlled project. (A Technology Control Plan is in place for the project).</li> <li>● The equipment/hardware will be shipped or taken outside the U.S. or</li> <li>● The equipment/hardware has an obvious military or space capability, is specially designed for military use and/or is a type of laser, sensor, infrared camera, or high-performance computer.</li> </ul>

**Primary Areas of Concern:**

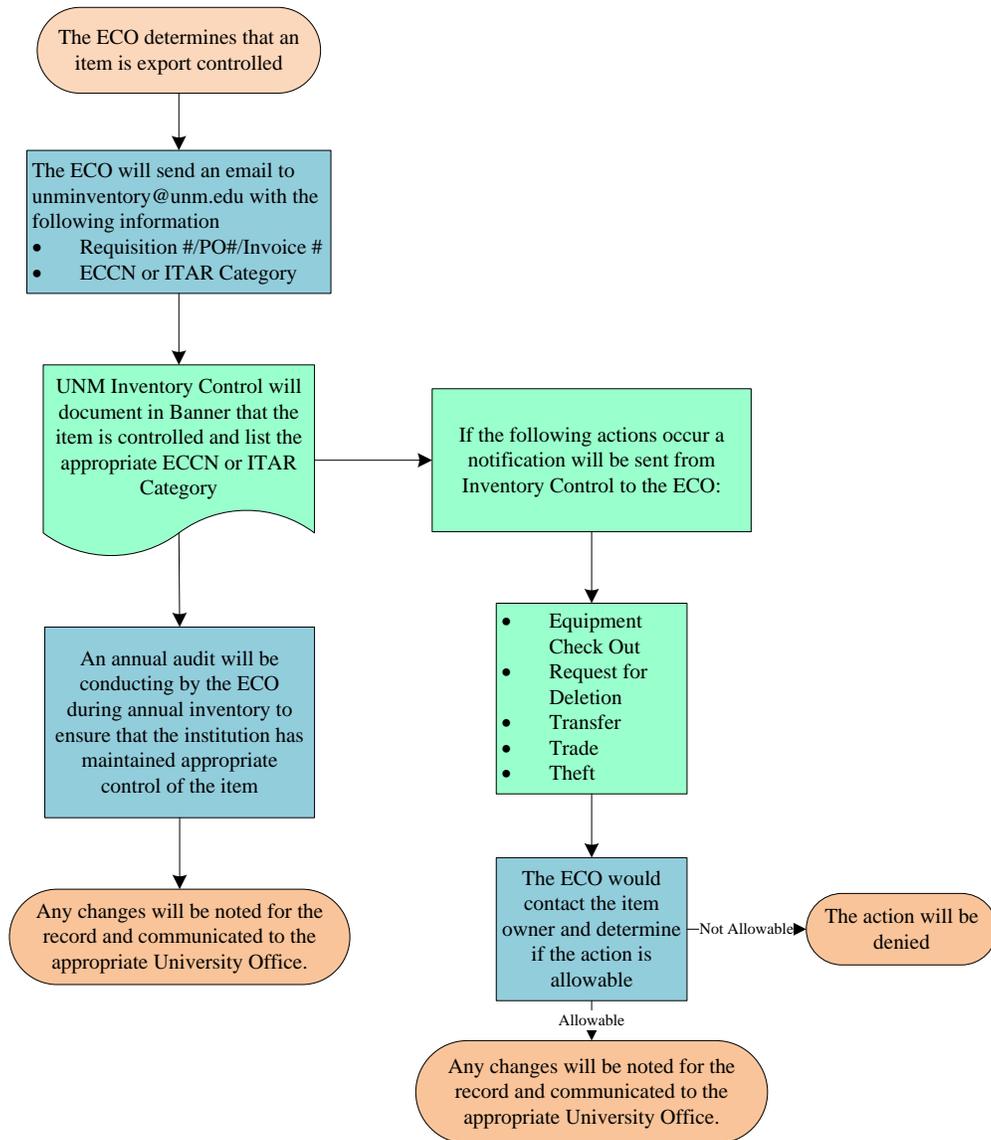
- Electrical & Computer Engineering
- Chemical & Nuclear Engineering
- Manufacturing Engineering
- Engineering Centers
- Computer Science
- Physics & Astronomy
- Earth & Planetary Sciences
- Biology
- COSMIAC

**Key Terms to watch for:**

- Lasers
- Sensors
- Robotics
- Optics
- High Level GPS systems
- Specialized cameras
- Non-commercial software
- ECCN- Export Control Classification Number
- EAR- Export Administration Regulations
- CCL- Commerce control list
- ITAR- International Traffic in Arms Regulations
- U.S. Munitions List

## INVENTORY CONTROL

In order to maintain an appropriate oversight of export controlled items the following process has been created for Inventory Control:

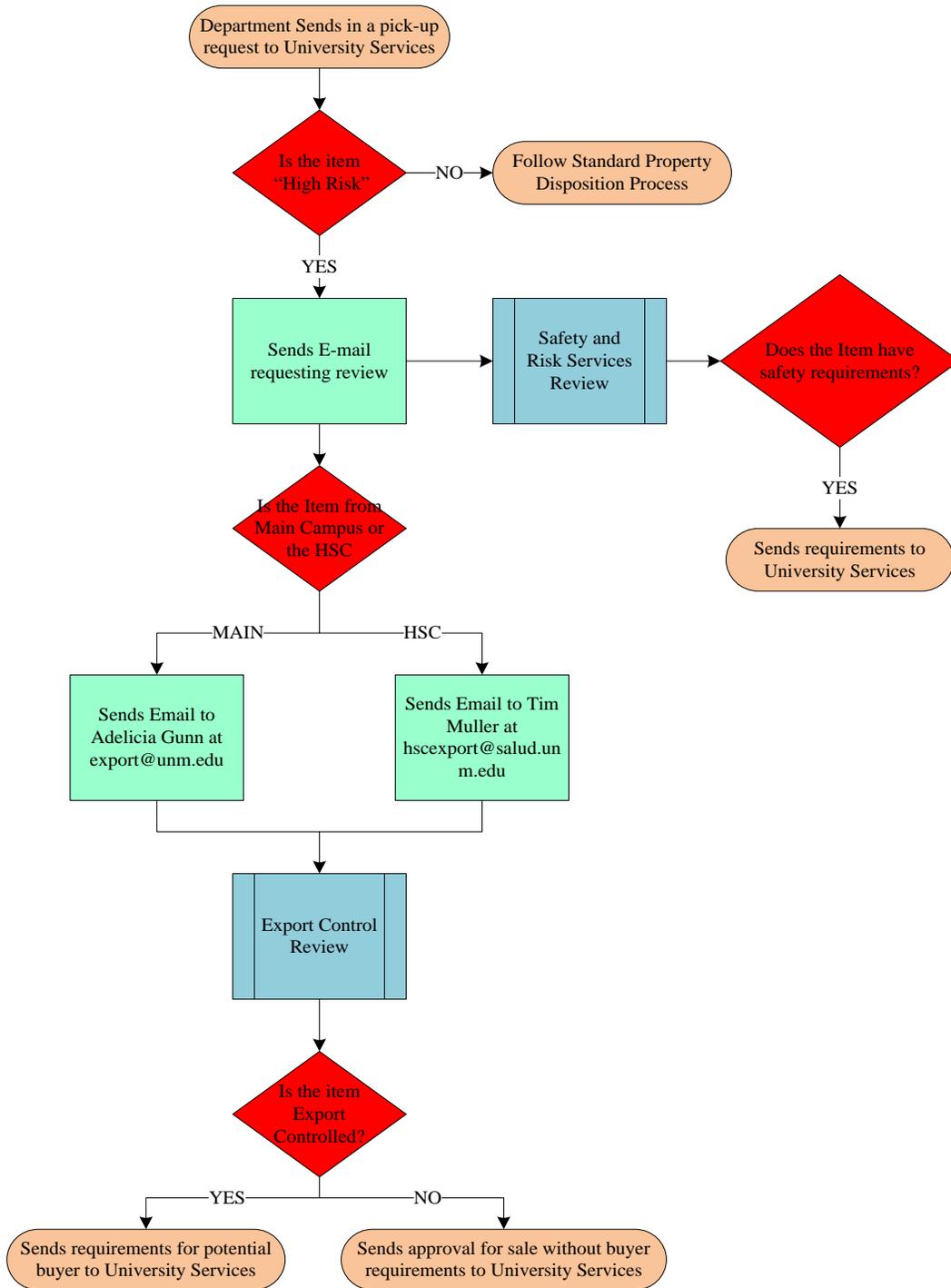


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**UNIVERSITY SERVICES (SURPLUS PROPERTY)**

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In order to maintain an appropriate compliance with U.S. Export Control Laws and Regulations the following process has been created for the disposition of UNM property.



**Special Requirements:**

If it is determined that the item is export controlled, special requirements for the buyer must be met: The special requirements may include:

1. The buyer must be a **U.S Person** as defined in 22 CFR 120.15

2. The buyer must show proof of citizenship in the form of a passport or birth certificate and government issued photo ID.
3. The buyer must pass an Export Control Debarment Screening
4. The buyer must have subject matter knowledge of the item to be purchased

All special requirements must be met before the item will be released to the buyer. If the buyer does not meet with special requirements the item will become available to the next highest bidder.

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## VIOLATIONS

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### **International Traffic in-Arms Regulations (ITAR):**

*Criminal:* Maximum \$1,000,000 per violation or up to ten years in prison, per violation

*Civil:* Maximum \$500,000 per violation

### **Export Administration Regulations (EAR):**

#### *Criminal*

*Willful Violation:* knowledge that the items at issue will be used for the benefit of, or that the destination or intended destination of the items is, any country to which exports are restricted for national security or foreign policy reasons

- *Corporate* — Maximum \$1,000,000 or five times the value of the export(s), whichever is greater, per violation
- *Individual* — Maximum \$250,000 and imprisonment of up to 10 years per violation or both, per violation

*Knowing Violation:* the act is committed intentionally, but there is no specific intent to break the law

- *Corporate* — Maximum \$50,000 or five times the value of the export(s), whichever is greater
- *Individual* — Maximum \$50,000 per violation and up to five years imprisonment, or both

#### *Civil*

Maximum \$12,000 per violation or \$120,000 per violation for items involving national security

### **Office of Foreign Assets Control (OFAC):**

#### *Criminal*

- *Corporate* — Maximum \$1,000,000 per violation, and up to \$100,000 in individual fines, per violation
- *Individual* — Maximum \$250,000 or up to ten years in prison, or both, per violation

#### *Civil*

- *Corporate* — Maximum \$55,000 per violation, or twice the amount of the transaction
- *Individual* — Maximum \$55,000 per violation

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## CONTACT INFORMATION

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[http://hsc.unm.edu/research/export\\_control.html](http://hsc.unm.edu/research/export_control.html)