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EXPORT AUTHORIZATION IMPLEMENTATION AND USE

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1.0 PURPOSE

Having an export authorization does not mean an export can immediately occur. In addition to penalizing failures to obtain authorizations, export control laws and regulations penalize failures to comply with the terms and limitations of export authorizations.

Procedures and transaction controls for implementation and using export authorizations are important to: (1) ensuring each transaction covered by export control laws that requires an authorization is duly authorized (or is held until the necessary authorization is obtained); (2) establishing and maintaining compliance with administrative requirements associated with the authorization; (3) implementing a mechanism to address the amendment or replacement of export authorizations to accommodate anticipated changes in activities; and (4) ensuring appropriate records are maintained.

Procedures and transaction controls can also address the issue of managing authorizations from multiple jurisdictions.

2.0 REQUIREMENTS

2.1 Authorization Implementation and Use Procedures

2.1.1 Mandatory Authorization Use When Required by Law; Authority to Hold Transactions
Organizations must require that all transactions subject to an export authorization requirement be duly authorized. This includes an organization's obligation to comply with the terms and limitations of the export authorization used and any applicable export control and export clearance requirements.

The authorization implementation and use procedures should allow for an employee with appropriate, independent authority to halt a transaction unless and until he or she can confirm a transaction's compliance with the applicable authorization including all terms and conditions thereto.

2.1.2 Required Elements of Authorization Implementation Procedures

Organizations should have a documented procedure governing the implementation of any type of authorization once it has been identified or obtained to support an export. This procedure should, at a minimum, establish and delegate responsibilities as to the following:

2.1.2.1 Export Authorization Implementation Requirements for Individual or Specific Licenses

Each specific authorization should be assigned an employee responsible for these implementation steps. Implementation steps should include the following:

- Identifying the impacted business personnel and processes.
- Making copies of authorizations and associated records available to appropriate personnel.
- Assigning responsibility for the applicable regulatory and license-specific terms, conditions and limitations, including, as appropriate:
 - Signing or executing the authorization;
 - Certification requirements;
 - Documentation requirements;
 - Government or third-party notification or reporting requirements;
 - Marking of any data or export documentation, including the drafting of any required destination control statements, to be transmitted under the authorization; and
 - Obtaining end-use statements, non-disclosure agreements or other required documents or certifications.
- Internal communication and training on the use of an authorization and its terms, conditions and limitations.
- Notification to other parties and end users regarding the terms, conditions and limitations of the authorizations and any general retransfer restrictions.
- Developing timelines and assigning responsibilities for managing renewal of an expired authorization or closure or replacement of an exhausted (*i.e.* as to value or quantity) of an authorization.

2.1.2.2 Export Authorization Implementation Requirements for Other Authorizations

Although most license exceptions, open licenses or general licenses do not require the exporter to obtain prior government approval for a specific transaction, organizations should nonetheless have procedures and transaction controls to implement these authorizations and guard against their unmonitored or improper use. Implementation procedures and transaction controls should include the same elements identified above in connection with implementation of specific authorizations, with the following exceptions:

- License exceptions and general licenses cannot be amended. If an anticipated activity does not meet the requirements for use of these authorizations, procedures should require the transaction or activity be placed on hold and that a specific authorization be obtained.
- Implementation plans must include a mechanism to monitor for regulatory or policy changes that may impact the scope of a license exception or general license already in use.

2.1.2.3 Centralized Review of Authorizations

Organizations should require that the implementation of any authorization be “certified” or “approved” by an employee with appropriate authority prior to use to advancing to use of the authorization. The purpose of this centralized review step is to ensure consistent application and compliance with regulations and license terms and conditions across the organization (or at least within discreet divisions of the organization). Centralized review of authorizations and associated implementation steps is especially critical in organizations that rely on manual processes and procedures when using export authorizations, since information technology tools are not in place to make export and compliance information available broadly and quickly accessible to personnel.

2.1.3 Required Elements of Authorization Use Procedures

Organizations should have a documented procedure governing the use of any type of export authorization once it has been properly implemented and approved for use. This procedure should, at a minimum, establish and delegate responsibilities as to the following:

- Matching each export activity that requires an authorization to a valid authorization and adhering to its requirements. Checklists are useful in this regard and can be used to verify compliance with the various administrative or regulatory requirements associated with the authorization, such as certification, documentation, notification, reporting or other requirements.
- Monitoring activity under the authorization, including regular checks to ensure all of the proposed activity is covered by the authorization and, where necessary, a mechanism to hold the activity (or portions thereof) and obtain a new, amended or replacement authorization.
- Logging activity occurring under each authorization.
- Monitoring the validity and scope of each authorization and notification to the appropriate employee when amendment, renewal or replacement authorizations are required.
- Notifying the appropriate employee if an authorization requires amendment or replacement or is no longer needed.
- Notification from the appropriate employee to internal and third parties if the authorization is no longer applicable or is revoked or expired.

3.0 RECORDKEEPING

The implementation and use of export authorizations is to be clearly documented, and such documents should be identified and maintained in accordance with the CEEC standard for recordkeeping.

Specifically, records should be maintained that document how authorizations were implemented and used, including any implementation plans, notifications (internal or to third-parties), reports, trainings, compliance checklists, desk procedures or other records relating to the implementation and use of an authorization. In addition, export authorizations themselves, including contemporaneous documentation of license exception and general license usage, must be documented and available for transactional review. Additional best practices for recordkeeping are established in [CEEC Recordkeeping Standard].