

Defense Acquisition University (DAU) Teaching Note

Technology Security and Foreign Disclosure (TSFD)

It is Department of Defense (DoD) policy that Technology Security and Foreign Disclosure (TSFD) decisions are made after considering the potential benefits of building allied and friendly nation partner capability while maintaining U.S. operational and technological advantages and protecting critical technology from diversion to potential adversaries. Clear guidelines exist to produce efficient DoD processes for TSFD decisions and ensure DoD-wide planning for building partner capacity (taking into account these processes early in the planning stages in an integrated, standardized, and institutionalized manner).

Regardless of the type of international acquisition program being considered or implemented, DoD TSFD measures and U.S. Government (USG) export controls are required by U.S. laws and Executive Orders and cannot be ignored. These policies and procedures are designed to achieve a careful, deliberate balance between the risks of transferring controlled technology and information that provide U.S. warfighters an advantage in combat against the benefits of international participation.

TSFD considerations may delay or compromise an international acquisition program if not properly planned. Preparing for TSFD considerations associated with international acquisition programs is often difficult because of failure to incorporate adequate program protection and defense exportability features in early program phases, as well as other unknowns. However, Program Managers (PMs) must work within their DoD Component and in some cases, with higher authorities, to ensure TSFD considerations are appropriately handled in international acquisition programs that fall within their area of responsibility. Any necessary disclosure authorizations must be in place in order to lawfully discuss certain types of DoD information. Failure to obtain those approvals may lead to false impressions, a possible loss of technology, and could potentially compromise a program.

Experience has shown that there are very few defense articles the U.S. will not sell or share with an ally or partner nation at some time during the life cycle of the article. Almost all existing and future DoD programs are, or will be, engaged in international acquisition activities of some kind during the life cycle. Therefore, defense exportability planning and incorporation of applicable program protection and other exportability features must be addressed by PMs and DoD Components throughout the acquisition process in both acquisition strategy and program protection activities. Early consideration of TSFD requirements as well as export control planning will enable international acquisition programs to achieve maximum benefit from international participation while avoiding negative impacts on cost, schedule, and performance goals or adverse effects to political military relations with allies and partner nations.

Actually achieving a balance among often-competing international acquisition goals at the individual program level, however, can be very challenging. Program Management Offices (PMOs) often find USG/DoD TSFD processes and export control-related efforts vexing since they do not have a single DoD process owner. The USG/DoD TSFD system involves overlapping responsibilities among a semi-autonomous collection of various TSFD processes –

colloquially referred to as the TSFD Pipes (see DAG Chapter 1 IA&E Supplement, [CH 1-S-9. Technology Security and Foreign Disclosure Processes](#) for details) – which issue both broad and specific TSFD policy guidance applicable to all AT&L and DoD Component international acquisition activities. These TSFD “pipes” operate outside the DoD Component Acquisition Executives’ (CAEs), the USD(AT&L)’s – and in some cases, the DoD’s span of control, which further exacerbates the complexities that PMOs often encounter in obtaining required TSFD approvals relevant to their program.

TSFD Processes

PMO’s, in consultation with their DoD Component International Program Office (IPO) and Foreign Disclosure Office (FDO), should identify the applicable TSFD pipes that pertain to their program as early as possible in the DoD acquisition process. Programs in Materiel Solution Analysis (MSA) or Technology Maturation and Risk Reduction (TMRR) phases should conduct an initial Defense Exportability Features (DEF) Feasibility Study as part of their International Acquisition & Exportability (IA&E) Assessment and in developing their Acquisition Strategy in order to systematically evaluate which TSFD pipe policy guidance may be pertinent to future international program efforts. Programs in later acquisition phases should conduct a DEF Feasibility Study that identifies and documents program-related TSFD pipe policy guidance that has already been issued, and assesses the need for additional TSFD pipe engagement, to ensure the PMO adequately considers the breadth and depth of USG/DoD TSFD policy decision making required to execute the international aspects of the program’s Acquisition Strategy. (See Figure below – Yellow stars = Title 50 Overlap and Blue stars = Interagency Process)

Figure: Technology Security and Foreign Disclosure Processes

★	NDP (National Disclosure Policy)	★	★	Policy	Primary
	MIDP (Military Intel Disclosure Policy)	★	★	USD(I)	Primary
	LO/CLO (Low-Observable/Counter-LO)			AT&L	Primary
	AT (Anti-Tamper)			AT&L	Process
★	COMSEC (Communications Security)	★	★	NSA & DoD CIO	Primary
	SAP (Special Access Programs)			SAPCO	Specialized
	DSC (Defensive Systems Committee)			AT&L + Policy	Specialized
	MTCR (Missile Technology Control Regime)		★	D TSA	Specialized
	NVD (Night Vision Devices)			D TSA	Specialized
	Intel	★	★	USD(I)	Specialized
	Data Links/WF (Waveforms)		★	DoD CIO	Specialized
	PNT/GPS (Positioning Navigation & Timing/Global Positioning System)			DoD CIO	Specialized
	GEOINT (Geospatial Intelligence)	★	★	NGA	Specialized
	EW (Electronic Warfare)	★	★	AT&L/NSA	Specialized

Primary DoD Processes (green)

- (1) National Disclosure Policy (NDP) governs the release of Classified Military Information (CMI) through the National Disclosure Policy Committee (NDPC) for CMI Categories 1-7; chaired by Director, Defense Technology Security Administration (DTSA).*
- (2) Military Intelligence Disclosure Policy Committee (MIDPC) governs the release of CMI Category 8 (Military Intelligence); chaired by USD(I)*
- (3) Low Observable and Counter Low Observable (LO/CLO) process governs release of LO/CLO capabilities and technologies under the leadership of USD(AT&L). AT&L's Director, Special Projects chairs the Tri-Service Committee that supports the LO/CLO Executive Committee (LO/CLO EXCOM) chaired by USD(AT&L)*
- (4) Anti-Tamper (AT) process governs the protection of CPI under the leadership of OUSD(AT&L) through the LO/CLO Executive Committee (EXCOM), DoD AT Executive Agent (ATEA) and DoD Component AT organizations*
- (5) Communications Security (COMSEC) process governs the release of USG communications security capabilities and technologies through the USG-level Committee for National Security Systems (CNSS) which is chaired by the National Security Agency (NSA)*

Specialized DoD Processes (blue)

- (1) Special Access Programs (SAP) process governs release of DoD SAP capabilities and technology through the DoD Special Access Program Coordinator (SAPCO) (AT&L's Director, Special Program's "other hat") through the SAP Oversight Committee (SAPOC) under the leadership of DepSecDef*
- (2) Defensive Systems Committee (DSC) process governs release of directed infrared countermeasure capabilities and technology using a process similar to the LO/CLO process under the leadership of USD(AT&L) and USD(P)*
- (3) Missile Technology Control Regime (MTCR) process governs export of "missile system" (including unmanned aerial system) capabilities and technologies for "missile systems" with the potential to deliver weapons of mass destruction under the leadership of the State Department (OUSD(P)/DTSA is the DoD representative in this process)*
- (4) Night Vision Device (NVD) technology release process governs release of NVD capabilities and technologies under the leadership of OUSD(P)/DTSA*
- (5) Intelligence (Intel) processes (various) govern release of USG and DoD intelligence products led by the Director of National Intelligence (USD(Intelligence) who is the DoD representative in the process supported by the Defense Intelligence Agency (DIA))*
- (6) Data Link/Waveform (DL/WF) process governs release of DoD DL/WF capabilities and technology under the leadership of DoD Chief Information Officer (CIO)*
- (7) Positioning, Navigation, and Timing (PNT)/Global Positioning System (GPS) process governs release of specialized USG PNT/GPS capabilities and technology under the leadership of DoD CIO*
- (8) Geospatial Intelligence (GEOINT) process governs the release of GEOINT products (including specialized mapping data) through the USG-level Remote Sensing Committee which is chaired by of the National Geospatial-Intelligence Agency (NGA)*

Multi-Process (tan)

- (1) Electronic Warfare (EW) process governs release of EW capability and technology based on inputs from multiple primary and secondary TSFD process owners under the leadership of OUSD(AT&L) and OUSD(P) technical experts, including DTSA*

Once the relevant TSFD pipes have been identified by the PMO, in consultation with their DoD Component IPO and local FDO, detailed engagement with each TSFD pipe owner should be pursued. Complex programs with leading edge DoD capabilities and technologies may require engagement with 5-10 different TSFD pipes. Moreover, each TSFD pipe owner requires that engagement efforts follow its policy and procedures including areas such as:

- Which DoD Component organization(s) are empowered to engage directly with the pipe (*PMOs often must engage applicable pipes through an empowered organization within their DoD Component*)
- The type of information required to obtain policy guidance/decisions from applicable pipes (*While much of the program-specific information required by each pipe is similar, each pipe has its own format as well as unique information requirements it establishes*)
- The way pipe decisions are made, documented, and recorded. (*There is also a wide variance among the various pipes regarding their assessment methodology and criteria, decision documents, and recording of previous decisions that may establish relevant precedents for your program*)

PMOs should be proactive within their DoD Component regarding TSFD pipe engagement activities. PMOs normally follow their DoD Component/FDOs lead regarding overall planning and engagement with pertinent TSFD pipes, but should also develop an internal PMO Plan of Action and Milestones (POA&M) (or equivalent) to ensure that all relevant TSFD pipe engagements are harmonized and synchronized with the program's master plan and/or international business plan.

In addition to the USG/DoD TSFD process, PMOs should also be aware of USG export control considerations pertaining to their program. USG/DoD TSFD and USG export control review and approval systems are separate, but related. While obtaining USG export approvals are primarily a DoD contractor responsibility, PMOs are routinely asked by DoD Component IPOs and FDOs to provide program-specific advice on proposed USG export approvals under consideration by the State Department (for defense articles, services, and technical info on the U.S. Munitions List in the International Traffic in Arms Regulations (ITAR)) and the Commerce Department (for dual-use items and technology on the Commerce Control List (CCL) in the Export Administration Regulations (EAR)).

PMOs and supporting personnel in various acquisition functional disciplines should participate, as applicable, in engaging the TSFD pipes, including the international manager, SE, Engineering, and SSE experts, the FDO, and the security manager. The PMO and functional organizations should work to ensure the government and contractor team TSFD and export control-related efforts are aligned, harmonized, and synchronized. TSFD pipes and USG export license reviewers expect the PMO to perform this function. PMOs that employ this approach normally achieve desired TSFD and related export control approval outcomes. PMOs that do not employ this integrated approach encounter multiple problems and substantial delays in international acquisition program formulation and execution.

While navigating the USG/DoD TSFD system, including navigation of each individual TSFD pipes relevant to a program, the PMO should understand that each TSFD pipe operates

differently. PMOs should also recognize that each TSFD pipe must address potential dilemmas that arise while assessing U.S. national security, foreign policy, and operational demands to provide key capabilities to allies and friends against the potential risk of loss or compromise of key U.S. warfighting capabilities and leading edge technologies. PMOs, in consultation with their DoD Component IPO and FDO, should work closely with the relevant TSFD pipes in order to optimally balance competing USG/DoD objectives as an integral part of their efforts to establish a solid foundation for their program's current and future IA&E efforts.

PMOs, the international manager, and supporting functional organizations should examine the following key considerations while navigating the TSFD pipes as part of Defense Exportability Integration efforts:

- (1) Has the PMO, in consultation with its DoD Component IPO and FDO, been able to identify all relevant TSFD pipes applicable to their program's IA&E efforts?
- (2) Has the PMO, working with its DoD Component IPO, FDO, and other key TSFD-related organizations engaged all of the relevant TSFD pipes? Has the PMO developed a POA&M (or equivalent) to obtain required TSFD pipe policy guidance/approvals?
- (3) For programs with substantial ICP involvement, have the PMO and program contractor(s) developed a Technology Release Roadmap (TRR) to help integrate PMO and program contractor TSFD and export control-related activities?
- (4) Has the PMO organized itself and supporting functional personnel in various acquisition disciplines including an international manager, SE, Engineering, and SSE experts, FDO, and security manager and their program contractor counterparts to effectively support TSFD pipe engagement activities?
- (5) Has the PMO been able to maintain focus on achieving big picture TSFD pipe outcomes that optimally balance competing USG/DoD foreign policy, operational, and capability/technology protection objectives for their program?

TSFD Governance

Department of Defense Directive (DoDD) 5111.21, *Arms Transfer and Technology Release Senior Steering Group and Technology Security and Foreign Disclosure Office* (October 14, 2014), establishes policy, assigns responsibilities, and describes authorities of the Arms Transfer and Technology Release Senior Steering Group (ATTR SSG) and the Technology Security and Foreign Disclosure Office (TSFDO).

The ATTR SSG serves as the senior decision-making body that provides guidance and direction to the DoD TSFD processes involved in the transfer of defense articles and the release of classified or sensitive technology to international partners in support of U.S. policy and national security objectives, in the following manner:

- Ensures that senior-level DoD direction is provided and addressed during the course of TSFD reviews by:
 - Making TSFD release considerations an inherent part of initial discussions regarding arms transfers and foreign disclosure affecting DoD stakeholders, particularly those of great importance to DoD senior leadership.

- Ensuring DoD Components provide all key DoD stakeholders visibility into potential export proposals.
- Providing a forum to balance the protection of critical technologies with building partner capacity.
- Issuing releases in principle, anticipatory policies, and closure documents to consolidate TSFD process decisions.
- Ensuring TSFD process owners and implementing agencies coordinate openly with each other when reviewing release requests.
- Providing executive-level guidance to the TSFD process authorities.
- Functions as the DoD appeals board and mediation body for TSFD processes (except NDPC) when TSFD stakeholders are unable to achieve consensus on proposed release decisions that affect DoD interests.
- Provides a forum for discussion and for developing recommendations for improvements to relevant U.S. Government and DoD arms transfer processes.
- Establishes task-focused teams made up of experts from relevant stakeholders on actionable matters of interest to the ATTR SSG.
- Provides direction to the TSFDO in its role as the Executive Secretariat for the ATTR SSG.

The Technology Security and Foreign Disclosure Office (TSFDO) serves as the Executive Secretariat to the ATTR SSG and as the DoD single entry point for priority TSFD review requests and other potential high-visibility cases. It ensures that critical U.S. technology and arms transfer release requests are addressed by DoD TSFD processes in a harmonized and streamlined manner. The TSFDO:

- Develops, obtains ATTR SSG approval, and maintains all ATTR SSG policies and procedures.
- Consults with DoD TSFD authorities to ensure their existing processes inform and facilitate release requests.
- Assesses and, where applicable, recommends changes to existing DoD TSFD policies and processes for ATTR SSG consideration.
- Develops, maintains, and implements TSFD checklists that provide guidance to the DoD TSFD community on how to staff release requests through the TSFD processes.
- As required, develops and coordinates:
 - Documentation for TSFD release requests which will incorporate assessments of technical and programmatic issues and analyses of opportunities to build partner capacity as they relate to DoD policies.
 - Deliberative documents that appeal TSFD release decisions.
- Develops and maintains a secure ATTR SSG website to host information on ATTR SSG-related activities and post anticipatory policies.
- Conducts ATTR SSG-authorized TSFD outreach efforts and continually engages with the DoD TSFD community to keep abreast of TSFD release considerations.