



Export Compliance Best Practices Guide for Museums



Background

There are several museums in the United States that belong to the Department of Energy (DOE), are supported by DOE, or have a DOE-related nexus. The displays and inventories at these museums include items sourced from DOE facilities, such as nuclear fuel cycle and weapons-related equipment. These items, regardless of age or condition, can represent significant national security risks if obtained or studied by a proliferator. It is imperative that the proliferation concerns, export controls, and property requirements associated with these security risks are identified and mitigated. These concerns are applicable to commodities, equipment, materials, documents, photographs, drawings, recordings, or the technology associated with any of the above, including information that could be gained from the synergy of the collection.

As a result of renewed historical preservation interests and involvement from the National Park Service, the DOE complex has seen an increase in the number of museums, as well as the collection of historical artifacts for future display. Several institutional problems have been identified:



Inadequate property management

- Lack of inventory procedures and ineffective record keeping
- Lack of proper acquisition and disposition methods
- No history of how or where item was obtained

Mishandling of classified, unclassified controlled nuclear information, official use only, and export-controlled items and information

- Improper document markings
- Release of proliferation sensitive technology

These issues are largely due to a lack of properly trained museum staff and curators. Most professional museum curators are unfamiliar with the complicated nuances of DOE property regulations, document release requirements, and sensitive technology controls. This results in a failure to conduct high risk property or document release reviews before placing the item in inventory or on public display. This deficiency has forced the removal of several items, displays, photographs, and recordings from museums across the DOE complex.

This guide highlights and provides best management practice recommendations for managing property and technical information associated with museum collections and displays to mitigate proliferation or security risks.



Key Requirements



Property. All acquisitions, transfers, loans, or donations of property and/or documents made by DOE or its contractors to any museum or made to the museum on DOE's behalf must abide by the requirements set forth in 41 CFR §109, Department of Energy Property Management Regulations, and 41 CFR 102, Federal Management Regulations.

Technology. All transfers of technical information, which includes technology embodied within a commodity, made by DOE or its contractors to any museum or made to the museum on DOE's behalf must receive export controlled information reviews as required in DOE O 241.1B, Scientific and Technical Information Management, and 41 CFR §109.

Trigger list/especially designed or prepared (EDP) equipment. The public display of especially designed or prepared commodities is generally disallowed. Such commodities are synonymous with the nuclear fuel cycle and fall under the scope of the Nuclear Regulatory Commission's 10 CFR §110. An Exception from Destruction must be obtained from the NNSA Office of Defense Nuclear Security (NA-20) for all disposition scenarios (including public display) other than destruction.

Nuclear technology. The public release of certain nuclear fuel cycle technologies may require approval from the NNSA Office of Nonproliferation and Arms Control (NA-24).

Military-related equipment and technology. The public display of military related commodities and technologies, including some DOE security equipment, may require approval from the U.S. Department of State and/or a degree of demilitarization in accordance with Department of Defense's DEMIL MANUAL 4160.28 Vol. I-III.

Dual-use equipment and technology. The public display of certain dual use commodities and technologies, may require approval from the U.S. Department of Commerce.



Recommendations

Museum staff should be properly trained in DOE regulations (at a minimum).

- 41 CFR §109 Department of Energy Property Management Regulations
- DOE O 241.1B Scientific and Technical Information Management
- Nonproliferation for High Risk Property Management Workshop



Recommendations

High risk and export control reviews. Every item needs to be reviewed by an individual trained in nuclear nonproliferation (who has been approved by the cognizant organizational property management officer (OPMO)) at acquisition and disposition. Special attention is necessary for the following items:

- Documents and books not generally available to the general public
- Replicas of actual equipment used in DOE facilities
- Graphics and posters describing technology or historic facilities and events
- Labels and name tags associated with specific artifacts
- Photographs (unless officially released to the public by DOE or its contractors)

Reviews by committee. Many museums have committees that review collections (e.g., incoming artifacts and documents) and how these are accepted, displayed, stored, and dispositioned. These committees should comprise representatives from classification, export control and/or nonproliferation, and property, including input from the cognizant DOE/NNSA organizational property management officer.

- For museums that receive funding from DOE or its contractors, an export compliance organization should work closely with museum designers, curators, and management to advise on the receipt, disposition (temporary or permanent) of all artifacts and documents, and on the creation or modification of displays involving DOE facilities or equipment.
- For museums that are not officially affiliated with DOE or its contractors, but which have collections or displays related to DOE facilities or programs, an export compliance organization should offer to serve as an advisor on property management and export controls.

Property management and inventories.

Museums should set up robust property management and inventory procedures for all artifacts, documents, and related displays. The cognizant organizational property management officer should review the property management procedures to ensure compliance with regulations. The following aspects should be included:

- Standard operating procedures to outline property management processes for the property life cycle (e.g., acquisition, use, and disposition) and record keeping
- Acquisition details (e.g., how and from where the item was obtained; title; details about items received as loans or gifts)
- Physical location of items within the museum or storage facilities (e.g., affixed bar codes as part of a tracking and inventory system)
- Records relating to the authorization for display, including details about the display (e.g., Office of Nuclear Export Controls [NA-242] authorizations, approved labels, or name tags)
- Notes about export control issues or other related sensitivities, high risk property reviews, and classification reviews
- Requirements for final disposition (e.g., demilitarization requirements)



Recommendations

Internal compliance. Museums should establish an export compliance program and identify resources for programmatic support. This program should

- include formal policies and procedures to manage property and ensure export compliance,
- establish an internal training program for museum staffs,
- establish requirements for all related documentation and record retention.

Display of trigger list items. DOE policy forbids the public display of and access to most Trigger List nuclear commodities originating from DOE facilities; exceptions can be made only after review and approval by NNSA's Office of Nuclear Export Controls (NA 242). Transferring or loaning Trigger List nuclear commodities to any museum is not permissible without an approved Exception from Destruction.

Authorized for public release. Information must be "readily available" to the public and released by the proper DOE authority to be considered "publicly available." Just because something is on the web or thought to be widely known does not mean it was authorized for public release.

- DOE is a cognizant government authority but cannot authorize the release of information pertaining to or controlled by another government agency.

DOE-loaned items. DOE should avoid loaning or providing documents or equipment containing sensitive or export controlled information to museums. Proper review procedures must be in place to handle these items if acquired by other means.

Museum-loaned items. Museums loaning DOE-related items to other museums must ensure they follow all proper loan procedures and have documented authorization from DOE property management to loan the item(s).

Military items. Full export compliance assessments should be made of any military related commodities (including DOE security force equipment) proposed for disposition or display in museums. This assessment should address technology and demilitarization requirements. Someone on the museum staff should be familiar with and trained on demilitarization requirements and protocols.

Modifying displays. When designing, creating, modifying, or exchanging displays, museums should avoid adding information obtained from non DOE sources unless approved by DOE export compliance organizations.

Historical audio/video recordings. Written or audio/video taped recordings of the testimony of former workers at DOE facilities should be reviewed and approved for release by DOE export compliance organizations and DOE Public Information Offices before being used in displays or otherwise made available to the public.

- The initial recordings should be made on and retained in systems not connected to the internet and otherwise protected from unauthorized access.



Recommendations

DOE compliance and proliferation support. Export compliance and nonproliferation organizations from DOE or its contractors should support museum property and compliance operations. NA-24 can provide a list of subject matter experts.

Security clearances. Museum acquisition staff should have at least one staff member with a security clearance to prevent spillage of classified information during acquisition, storage, and display. Cleared personnel should be at the front lines of incoming acquisitions to prevent security issues. Associated DOE organizational property management officers should also maintain a security clearance.

Items acquired from the general public or non-DOE sources. Acquisitions/gifts/loans of artifacts and documents not created or supplied by DOE entities, but that relate to its facilities and programs, carry export compliance and proliferation concerns and must be reviewed at acquisition and receive proper authorization before being released to the public (i.e., put on display). All gifts, transfers of incoming property, and loans must receive prior approval by DOE property management and may require prior approval from a DOE historical preservation staff member.

Property management priorities vs historical preservation. Methodologies and priorities associated with property management are not always nested with museum staff's training and preservation objectives. There should be a balance between the two within the lateral limits of existing federal laws and regulations.

Creation or modification of displays.

Any modification or change to a DOE-related display should be reviewed and approved for classification, export control, and proliferation concerns before releasing to the public. This includes, but is not limited to, adding or enhancing photographs, open source information, and/or modifying textual descriptions.

Disposition of artifacts and documents.

Museums may eventually donate, sell, loan, or discard artifacts and documents related to DOE facilities and programs. Disposition plans for DOE property should be reviewed and approved by DOE property management and export control/proliferation subject matter experts to determine if the disposition method is appropriate and what mitigating factors, if any, are needed.

Employment of foreign nationals.

Hiring or contracting with foreign nationals could create deemed export violation concerns. DOE export compliance specialists should be consulted in situations where foreign nationals, contracted by the museum, gain additional access to DOE-specific items, documents, or displays. This includes when artifacts receive repairs or refurbishments.



Definitions

Disposal means the process of reutilizing, transferring, donating, selling, abandoning, destroying, or other disposition of government-owned personal property.

Dual use means nuclear-related material, equipment, and related technology as described in the Nuclear Suppliers Group Dual-Use List as published in International Atomic Energy Agency Information Circular (INFCIRC) 254 Part 2 and as implemented by the Department of Commerce in the U.S. Export Administration Regulations (15 CFR part 774).

Especially designed or prepared property means equipment and material designed or prepared especially for use in the nuclear fuel cycle and described in the Nuclear Suppliers Group Trigger List as published in International Atomic Energy Agency INFCIRC 254 Part 1 and as implemented by the U.S. Nuclear Regulatory Commission in 10 CFR part 110.

Export controlled information means unclassified U.S. Government information under DOE cognizance that, if proposed for export by the private sector, would require a U.S. Department of Commerce or U.S. Department of State validated license, or a DOE authorization for export, and which, if given uncontrolled release, could reasonably be expected to adversely affect U.S. national security or nuclear nonproliferation objectives.

Export controlled property means property the export of which is subject to licensing by the U.S. Department of Commerce, the U.S. Department of State, the U.S. Nuclear Regulatory Commission, or authorized by the DOE.

High risk personal property means property that, because of its potential impact on public health and safety, the environment, national security interests, or proliferation concerns, must be controlled, and disposed of in other than the routine manner. The categories of high risk property are automatic data processing equipment, especially designed or prepared property, export controlled information, export controlled property, hazardous property, nuclear weapon components or weapon-like components, proliferation sensitive property, radioactive property, special nuclear material, and unclassified controlled nuclear information.

Munitions List Items are commodities (usually defense articles/defense services) listed in the International Traffic in Arms Regulation (22 CFR part 121), published by the U.S. Department of State (41 CFR 102-36.40).

Nuclear weapon component or weapon-like component means parts of whole war reserve nuclear weapon systems, joint test assemblies, trainers, or test devices, including associated testing, maintenance, and handling equipment or items that simulate such parts.

Personal property means any property, except real property. For purposes of this part, the term excludes records of the federal government, and naval vessels of the following categories: battleships, cruisers, aircraft carriers, destroyers, and submarines (41 CFR 102-36.40).



Export Compliance Assistance Program (ECAP)



833-411-ECAP (3227)



<https://nnsa.nsis.anl.gov/ecap>



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