

License Exception GOV

Published Date: 2014

Last Updated: 2014

Q.1: How long does “temporary” mean for purposes of paragraph (b)(2)(iii)(C) of License Exception GOV?

A.1: "Temporary," for purposes of paragraph (b)(2)(iii) of License Exception GOV, means four years from the date of an item's export, reexport, or transfer (in-country) it must be returned to the exporter, reexporter, or transferor, or its disposition otherwise authorized in accordance with the EAR.

Q.2: If I know at the time of export, reexport or, transfer (in-country) that an item is for a permanent export, reexport, or transfer (in-country, can paragraph (b)(2)(iii)(C) still be used?

A.2: No. Paragraph (b)(2)(iii)(C) may only be used when you know that the item will be temporarily exported, reexported, or transferred (in-country).

Q.3: Are non-governmental (NGO) organizations, such as Doctors Without Borders or Catholic Charities, considered international organizations or agencies for purposes of paragraph (b)(2) of License Exception GOV?

A.3: No. For purposes of paragraph (b)(2)(iii)(B), the term "international organization" does not include non-governmental organizations.

Q.4: For purposes of paragraph (b)(2)(iii)(B) of License Exception GOV, does the item being exported, reexported, or transferred (in-country) need to be consigned to the foreign government, international organization or agency?

A.4: No, it does not. The cooperative program, project, agreement, or arrangement between the U.S. Government and the foreign government, international organization or agency at issue must be in force and effect, but the items do not need to be consigned to the foreign government, international organization or agency. For example, the exporter may export directly to a non-governmental organization or aid recipient, provided there was an agreement between the U.S. Government and the foreign government, international organization or agency, and the non-governmental organization was assisting the foreign government, international organization or agency with implementing the cooperative program, project, agreement or arrangement, or the aid recipients were the intended beneficiaries of the program or agreement with the U.S. Government. In such cases, the consignee must be a documented participant in the program,

project, agreement, or arrangement. The responsible U.S. Government agency must certify to the exporter that the consignee is a participant.

Q.5: What does the term “Government Furnished Equipment (GFE)” mean in paragraph (b)(2)(iii)(E) of License Exception GOV?

A.5: According to Federal Acquisition Regulation 52.245-1, "Government-furnished property' means property in the possession of, or directly acquired by, the Government and subsequently furnished to the Contractor for performance of a contract. Government-furnished property includes, but is not limited to, spares and property furnished for repair, maintenance, overhaul, or modification. Government-furnished property also includes contractor-acquired property if the contractor-acquired property is a deliverable under a cost contract when accepted by the Government for continued use under the contract." For purposes of paragraph (b)(2)(iii)(E), BIS uses this same definition for Government Furnished Equipment (GFE).

Q.6: I am trying to understand what “solely” for United States Government use means in the context of paragraph (b)(2)(iii)(A). For example, if a contractor who maintains a supply and repair depot for off-road vehicles used by USAID will use parts and components that are to be exported to a contractor solely for the use of maintaining and repairing those off-road vehicles for USAID, would that be within the scope of paragraph (b)(2)(iii)(A) even though the parts and components are not consigned to USAID and are being used by the contractor?

A.6: If the contractor will use those parts and components solely for uses specific to the U.S. Government, such as repairing off-road vehicles for USAID, then such uses would be within the scope of the term "solely for United States Government end use" for purposes of paragraph (b)(2)(iii)(A).