EXPORT CONTROLS AT UW-MADISON

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WHAT ARE EXPORT CONTROLS?

- Export Controls are a series of U.S. laws and regulations that control the export of information, goods and services from the United States to foreign countries, or to the release of controlled technology to foreign persons within the U.S.
- These laws can apply to UW research activities, including activities here on campus when foreign persons are involved.
- Other related laws control financial interactions with foreign governments and persons.
- Violation of these laws and regulations can result in severe civil and criminal penalties to individuals and/or to the institution.
WHEN MIGHT EXPORT CONTROLS APPLY AT THE UW?

Typical scenarios at the UW that can involve export controls include:

- Research with pathogenic/toxic materials
- Satellite and space-related research
- Shipment of samples and equipment for overseas projects
- Proprietary industry-sponsored research
- Foreign travel

ALSO – employment-based visa applications now require export control certification based on assessment of visa holder’s activities.
PRIMARY EXPORT CONTROL LAWS

- The two main federal export control laws are the Export Administration Regulations (EAR), administered by the Department of Commerce, and the International Traffic in Arms Regulations (ITAR), administered by the Department of State.

- ITAR primarily serves national security goals; EAR serves national security, foreign policy and economic and technological competitiveness goals.
EAR AND ITAR - DIFFERENCES

• The EAR regulates so-called “dual-use” technology.
• The ITAR primarily regulates technology that is specifically designed or adapted for military use (including components originally designed for a military use such as sensors that are included in equipment used for civilian purposes).
• ITAR requirements apply equally to persons of any foreign country; EAR requirements can vary widely depending upon the country.
• Most UW export control issues will involve the EAR.
EAR AND ITAR - SIMILARITIES

For both EAR and ITAR:

• “Export” means not only the physical shipment of an item outside of the U.S., but also the oral or visual exposure of controlled technology within the U.S. to foreign persons (known as “deemed export”).

• Foreign individuals with the immigration status of “lawful permanent resident” (i.e., green card holders) are considered U.S. persons.
Both the EAR and ITAR:

- Generally do not apply to information and technology in the public domain, including published information, information commonly taught in university courses, and information generated in the course of fundamental research.
- Contain license exceptions, including some specific to university research activities.
- Have a licensing process to enable the export of information and items that are not in the public domain or covered by an applicable exception, as well as any related services.
EXCEPTION FOR FUNDAMENTAL RESEARCH

- Export controls do not apply to information arising from “fundamental research.”
- “Fundamental research” means basic and applied research in science and engineering, where the resulting information is ordinarily published and shared broadly with the scientific community.
- “Fundamental research” is distinguished from proprietary research and from industrial product development, the results of which ordinarily are restricted for proprietary reasons or specific national security reasons.
- UW policies on publication and ownership of data keep most research at the UW within the fundamental research exception.
- However, export controls can apply to fundamental research if the UW uses proprietary or sensitive information or technology supplied by third parties in some aspect of the research.
EXPORT LICENSING

- Export licenses for shipment of tangible materials overseas can be obtained relatively easily and quickly.
- “Deemed export” licenses covering transmission of controlled information within the U.S. can be obtained, but are more complicated and will entail significant time and effort.
- License exceptions are sometimes available.
OTHER RELATED CONTROLS

Other related restrictions:

- USDA/CDC Select Agents (also covered by the EAR)
- “Sensitive but unclassified” information
- Homeland Security “Critical Infrastructure Information” Program
- Trade embargoes (particularly Cuba, Iran, Syria, North Korea, Sudan)
- Department of Treasury Office of Foreign Asset Controls “specially designated nationals” list and similar lists of individuals and entities with whom financial and export transactions are restricted.
UW’S EXPORT CONTROL COMPLIANCE PROGRAM

- Tom Demke serves as UW’s Export Control Compliance Officer
- Master campus export control compliance plan established at [http://www.grad.wisc.edu/research/policyrp/ec/ecpcampus120321.pdf](http://www.grad.wisc.edu/research/policyrp/ec/ecpcampus120321.pdf)
- Campus plan follows a Dept. of Commerce template for compliance programs

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UW’S EXPORT CONTROL COMPLIANCE PROGRAM

Structure

- Assessed campus departments for impact
- Minimal impact on non-technical, non-science disciplines
- Distributed system for compliance
UW’S EXPORT CONTROL COMPLIANCE PROGRAM

Training

• Training provided to targeted groups - Campus leadership, affected PIs/PMs and Points of Contact
• Training to campus at large as part of Grad School seminar series
• Classroom and Learn@UW deployment

Resources

• Website: http://www.grad.wisc.edu/research/policyrp/ec/index.htm
• A variety of campus resources, including export control shipping SOPs & FAQs, have been developed & posted on the export control website
UW’S EXPORT CONTROL COMPLIANCE PROGRAM

Project & Transaction Assessment

- **WISPER Screening Tool** - being implemented to identify export control concerns at proposal/award level (Oct 30)

- **Project Assessment Form** - available to determine when a license is needed

- **Visa Export Control Certification** - For H1-B & O-1 applications; since Feb 2011

- **Visual Compliance Denied Party Screening Service** - used for screening visas applications, project awards & purchasing transactions

- Denied party screenings conducted with assistance of Business Services
UW EXPORT CONTROL METRICS

Average Approval Time:
- ITAR - 18 days
- EAR - 45 days

2 visits by gov’t agencies (2012)
- Homeland Security
- BIS (Commerce)

1 non-compliance (May 2011)
- AERI export license not used for shipment
- Reported; no penalties
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