Export Control Overview and Update

Marci Copeland, Export Control Officer
US Export Laws
Avoid Delays, Complications, Fines & Jail Time

- Transfer of certain items including equipment, materials, software & technology is export restricted
- Licensing can impact research timeline
- Certain imports/exports may be detained or seized by Customs in the US or in other countries

Price of non-compliance can result in negative publicity, put your funding at risk, result in penalties & fines -
  - $250,000 to $1,000,000
  - Criminal offenses can result in imprisonment
    - Roth Case
US Export Control Regulations

Export Administration Regulations (EAR)
- “Dual use” items are controlled by the Export Administration Regulations (EAR - 19 CFR 730-774) administered by The Department of Commerce, Bureau of Industry and Security (BIS) administers the EAR

International Traffic in Arms Regulations (ITAR)
- Munitions and defense services are controlled under the International Traffic in Arms Regulations (ITAR) are administered by the Department of State

Office of Foreign Asset Control (OFAC)
- Treasury’s Office of Foreign Assets Controls (OFAC) administers economic and trade sanctions
- Research in or collaborations with any of the following countries, require review from Export Control: Cuba, Iran, North Korea, Sudan, Syria

AND OTHERS...NRC
ITAR Stuff
What is an “Export”? 

- Physical Export: sending **any** material to foreign location (includes hand carry & electronic exports)

- Deemed Export: disclosing “controlled” technical data either written, oral, or visually in the United States to a foreign person
Export Control Factors

- **Place**: sanctions or countries requiring license for an item
- **Persons**: restricted person or national status of person
  - Foreign person: not a US citizen or legal permanent resident or protected person
- **Item**: what is it? - export classification
- **End Use Prohibitions**: WMD, missile, nuclear
Spectrum of Research & Export Controls

- **Fundamental Research**: Not Subject to Regs, Open Participation
- **Dual Use (EAR) Restricted Research**: US Citizens, Permanent Residents, Protected Persons Ok
- **Military (ITAR) Restricted Research**: Foreign Nat'l Licensing or Exception Required
- **Classified Restricted Research**: US Citizens Only
Fundamental Research Exclusion (FRE)

Covers: (1) information (not items); (2) resulting from “basic & applied research in science & engineering; (3) at an “accredited institution of higher education” (EAR); (4) “located in the United States”; (5) that is “ordinarily published & shared broadly within the scientific community”
Limits of the FRE

Fundamental Research does NOT cover --

- **Tangible exports** of hardware, software, technology
- Export controlled technology or technical data received from a sponsor or 3rd party
- Export controlled activities - “defense services”
- Sales and Service
- Research involving creation or use of certain **encryption source code**

**Transactions** involving **sanctioned countries, individuals and entities and restricted end-uses** must be reviewed independent of fundamental research, for licensing requirements.
Partners in Export Control

- Export Control Team
  - Sponsored Projects Administration
  - Faculty, Researchers & Administrators
  - Export Officer
  - Purchasing
  - Tech Transfer
  - Int’l Center & HR

Faculty, Researchers & Administrators

Export Officer

Purchasing

Tech Transfer

Int’l Center & HR

Sponsored Projects Administration
Training

- Online videos
- Specialized training for particular audiences
  - Sponsored projects
  - Faculty
  - Procurement
  - Shipping
  - Departments
Agreement Review

Contract, Grants, NDAs, Purchase Orders, Loan Agreements, MTAs, Sales and Service

- Publication, foreign national restrictions- negotiate out
- Identify export controlled items/information/software
- Conduct restricted party screening
<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Will this project include work conducted by UCI personnel completed at foreign sites?</td>
<td>No</td>
</tr>
<tr>
<td>Are foreign sub-recipients/subcontractors or foreign collaborators involved?</td>
<td>No</td>
</tr>
<tr>
<td>Will any equipment, materials or software be exported by UCI in the course of this project?</td>
<td>No</td>
</tr>
<tr>
<td>Is travel to Cuba, Iran, North Korea, Sudan or Syria required in order to complete this project?</td>
<td>No</td>
</tr>
<tr>
<td>Will this project require any export controlled information to be received on campus? Contact Marci Copeland 4-0445 if you have any questions.</td>
<td>No</td>
</tr>
</tbody>
</table>
International Shipment Review

- Restricted Party Screening
- Sanctioned Country Screening-OFAC
- Export Jurisdiction, Classification or licensing
  - ITAR, EAR, NRC & others
  - Import licensing may be required in receiving country
- Foreign Trade Regulations AES EEI
  - Export declaration for $2500 or needs an export license
  - May be filed through freight forwarder

Build shipping, import tax and customs brokerage costs into budgets
Restricted Party & Sanctions Screening

**Country screen for Sanctions**
- Licenses generally always required for **Cuba, Iran, North Korea, Syria and Sudan** for both imports and exports

**Screening on name of person and entity and address against US government restricted parties lists**
- Narco traffickers, weapons developers, nuclear proliferators, terrorists, entities, persons
- There are universities and research institutes on the lists

**Could apply to:**
- International payments (subawards, purchases, service or recharge)
- International shipments
- International collaborations
- International visitors (visiting scholars)
- International students
Technology Control Plans

Physical Security
- Restricted Access areas (R&D offices, labs, etc.)
- All Foreign nationals (non-US persons) will not be permitted into restricted areas without an export license
  - This also includes visitors who will require a license should they want to tour restricted areas

IT Security
- Technical data must be restricted and only approved based on citizenship/permanent residency credentials and need-to-know
- IT staff with access to servers and equipment could require export licenses

Item Security - one lock approach
What to look for....
Restricted research, equipment or materials

- Looks for terms
  - No export
  - No foreign nationals
  - ITAR
- Contact Export Control Officer for Assistance
ATA’s Nanoradian-Class Rotational Sensors

October 2010
Export control terms

Looks for signs....

- Request for proposals
  - “the results of this research will be ITAR”

- Correspondence with sponsors and vendors
  - This is export controlled, do not distribute, no export

- Any activities (research, sales and service, materials) that involve defense contractors (small or large)
  - Boeing, Lockheed Martin, Northrop Grumman, etc
Sanctioned countries- OFAC

- Cuba, Iran, North Korea, Syria and Sudan and others...
- Certain research or travel to countries could require licenses

Hand carry or shipping equipment/materials

- Equipment review same as shipping review
- License exceptions may be available- TMP for tools of trade
Restricted parties include individuals and entities, inside and outside the United States.

Examples include:
- Fiber Materials Inc., United States
- Sichuan University, Chengdu, China
- Northwestern Polytechnic University, Xi’an, China
- Ben Gurion, Israel

Government consolidated screening list:
http://export.gov/ecr/eg_main_023148.asp

Contact the Export Control Officer for assistance with screening and license determinations.
Export Licensing Systems and Timelines

**ITAR DTrade (DDTC)**
- 6 weeks – 3 months for license

**EAR SNAP-R (BIS)**
- 4-6 weeks for license

**OFAC licensing**
- 3 months – 1 year for license

Incomplete licenses applications may be returned without action (RWA)
Record keeping

- 5 years from the date of export or from the date of expiration from the export license
  - Includes shipping documentation and email communications
Export Control Reform

- DOD funding ITAR
- Movement of items from ITAR to EAR
- Regulations are being updated constantly
Videos

Topics:

University Research: 6 minutes, 45 seconds
Traveling abroad: 4 minutes, 28 seconds
ITAR: 7 minutes, 40 seconds
Biological Agents: 5 minutes, 4 seconds
OFAC: 3 minutes, 52 seconds

Who should watch them?

- Students, post-docs, researchers
- Staff - use as part of new hire training, watch when you have a question
- Faculty

UC IRVINE ADMINISTRATIVE POLICIES & PROCEDURES

OFFICE OF RESEARCH
Sec. 480-20: Guidelines for Compliance with Export Control Regulations

Responsible Administrator: Vice Chancellor - Office of Research
Revised: June 2014

References/Resources

U.S. Department of State
- International Traffic in Arms Regulations (ITAR)
- U.S. Munitions List (USML)
- Debarred Parties List

U.S. Department of Commerce, Bureau of Industry and Security (BIS)
- Export Administration Regulations (EAR)
- Commerce Control List (CCL)

http://www.policies.uci.edu/adm/procs/400/480-20.html
Contact Me With Your Questions

Marci Copeland
Export Control Officer
m.copeland@uci.edu
949-824-0445