



To: Faculty and Administrators
 From: Mary Lidstrom, Vice Provost for Research
 Subject: Export Control Regulations

Summary:

- **Export Control laws are federally-mandated laws that regulate distribution of strategic technologies, services, funding, scholarship, and information to foreign nationals and foreign countries**
- **Most UW research activities are exempt, but a significant number are not**
- **PIs are personally responsible for compliance; failure to comply could result in personal liability of fines and/or imprisonment**

PLEASE READ THIS MEMORANDUM TO UNDERSTAND THESE LAWS

University of Washington faculty are part of an international research community. This international participation carries legal responsibilities regarding access and dissemination of certain technology and data to foreign countries and nationals under Export Control laws and regulations of the United States. The Export Control laws regulate the distribution to foreign nationals and foreign countries of strategic technologies, services, funding, scholarship and information for reasons of foreign policy and national security.

The regulations can impact the ability of:

- foreign student to participate in research involving a controlled technology,
- the provision of services including training in the use of controlled equipment to foreign nationals,
- sending controlled equipment to foreign countries, and
- the provision or expenditure of funds in certain “embargoed” foreign countries.

As explained below, the majority of UW activities are exempt from these regulations (except for the embargoed countries). However, it is imperative that the University identify those activities that are restricted or require special licenses before the activity is initiated, that the University have a compliance plan, and that all faculty, students and staff be aware of and comply with the Export Control regulations. Failure to obey these regulations and comply with the requirements can result in personal liability for violations of fines up to \$1M and possible imprisonment in addition to civil and criminal penalties for the individual and the institution.

Although these laws have been in existence since the 1940’s, there has been an increasing impact on universities and particularly university research since 9/11. The regulations define an export as follows:

- a shipment or the hand carry of controlled equipment to foreign country or national
- the release of controlled technical data or software in a foreign country.
- the release of controlled source code or technical data to a foreign national in the US
- the inspection of controlled US equipment and facilities by a foreign national
- the release of controlled technical data through demonstrations, meetings and training of foreign nationals.

Three federal agencies are responsible for the enforcement of these laws:

- The Department of State is responsible for the International Traffic in Arms Regulations (ITAR) which includes those technologies related to defense, munitions and weapons of mass destruction. http://www.epic.org/crypto/export_controls/itar.html
- The Department of Commerce (Bureau of Industry and Security) through its Export Acquisition Regulations (EAR) regulates those dual use technologies having military/strategic and civilian applications and deemed exports. <http://www.access.gpo.gov/bis/ear/pdf/774.pdf>
- The Dept of Treasury Office of Foreign Assets (OFAC) <http://www.treas.gov/offices/eotffc/ofac/sanctions/index.html> oversees US trade embargoes and enforces all three programs at US borders through US Customs. These cover payment of compensation to foreign nationals, travel to and service agreements with embargoed countries. **All** activities with Cuba, Syria, Iran, Libya, Liberia, Sudan and North Korea require export licenses. Be aware that Export Control requires licensing of technologies and activities in many other countries as well.

The University is provided three exemptions to these regulations. In the 1980's the President Reagan signed National Security Defense Directive (NSDD) 189, which allowed the products of fundamental research to remain unrestricted. It allowed that no restrictions should be placed upon the conduct or reporting of Federally funded fundamental research that has not received national security classification except as provided in applicable US statutes. This is the **Fundamental Research Exclusion (FRE)** which allows research results to be disclosed to foreign persons without a special export license as long as that research agreement contains terms that do not exclude foreign nationals participation and where the resulting information is ordinarily published and shared broadly by the scientific community. It is important that agreements accepted by the University contain those provisions so that our international research participants, faculty, students and staff are able to participate in research in university laboratories.

Universities are afforded two other exclusions from export licensing. The first is the **Employment Exclusion** which means that no license is required to share controlled technical information with a foreign person who is a full time bona fide university employee, with a permanent address in the US and is not a national of certain embargoed countries and who is advised in writing not to share controlled information with other foreign persons. The second is the **Education Exclusion**. No license is required when the information disseminated is about general mathematical, scientific or engineering principles taught in Universities or which are in the public domain. Foreign students using controlled equipment to conduct research must be registered for a research credit class.

Export Control regulation information can be found at the Office of Sponsored Programs website <http://www.washington.edu/research/osp/ecr.html>.

If you have questions regarding export controls, please call Carol Zuiches, Assistant Vice Provost for Research, 543-4043.