Export Control Basics

THE UNIVERSITY *of*
NEW ORLEANS

Updated on May 15, 2014

What are Export Controls?

U.S. laws and regulations that restrict the distribution to foreign nationals and foreign countries of strategically important products, services and information for reasons of foreign policy and national security.

What is the purpose of the Regulations?

1. Implement foreign policy goals and objectives

2. Prevent terrorism

3. Restrict exports of goods and technology that could contribute to U.S. adversaries' military potential

4. Restrict exports of goods and technology that could damage the vitality and critical interests of the U.S. Economy

5. Prevent proliferation of weapons of mass destruction (chemical, biological, nuclear)

THE UNIVERSITY of NEW ORLEANS

Federal Agencies with Oversight of Export Control Laws

Department of State

1. International Traffic in Arms – (ITAR) – technologies with inherently military properties

Department of Commerce

2. Export Administration Regulations (EAR) – technologies with "dual uses" but primarily commercial

Department of Treasury

3. Office of Foreign Asset Control (OFAC) - prohibits transactions of value with certain countries and individuals

THE UNIVERSITY of NEW ORLEANS

What is an "Export"

- Physical shipment of goods or items

- Electronic or digital transmission of goods or items

- Release of specific technical data to any foreign national

- Access by a foreign national of any covered technology

THE UNIVERSITY of NEW ORLEANS

What is an "Deemed Export"

When a foreign national on U.S. soil is exposed to, or allowed access to an export-controlled item or export-controlled software or information.

- Applies to research assistants, students, visiting foreign researchers, and U.S. citizens visiting a foreign country

- Does not apply to U.S. citizens or permanent residents ("green card')

- May occur through visual inspection, electronic mail, oral exchange and a variety of other means

The Export License Requirement

Although many of the University's activities are exempt from export control laws, some activities may be restricted.

In those cases, prior written authorization (a "license) from one or more U.S. Government agencies will be required to carry out certain sponsored research or other educational activities involving specified technologies or certain countries, if an exemption or exclusion is not available.

THE UNIVERSITY of NEW ORLEANS

Exemptions/ Exclusions for Universities Activities

The University **does not** need to apply for an export control license if one of the following exemptions apply:

- **Public Domain Exclusion (ITAR, EAR)***

- **Education Exclusion (ITAR, EAR)**

- **Fundamental Research Exclusion (ITAR, EAR)***

- **Employment Exclusion (ITAR only)**

* Under the ITAR, the Fundamental Research Exclusion is a subset of the Public Domain Exclusion.

THE UNIVERSITY *of* NEW ORLEANS

Fundamental Research Exclusion (ITAR, EAR)

No License is required to disclose to foreign nationals information which is "published and which is generally accessible or available to the public [through, for example] fundamental research in science and engineering at universities where this resulting information is *ordinarily published and shared broadly in the scientific community*"

THE UNIVERSITY *of* NEW ORLEANS

Caution !!

Certain Activities May Compromise the Fundamental
Research Exclusion

The FRE is <u>destroyed</u> if the University accepts any contract /grant that:

1	Forbids the participation of foreign nationals
2	Gives the sponsors the right to *approve* publications resulting from research; or
3	Otherwise operates to forbid participation in the research and/or access to and disclosure of research results
4	This includes "side deals" that may be made outside the terms of the award

THE UNIVERSITY *of*
NEW ORLEANS

Other Areas of Concern

Although research is the primary area of concern, there are other University activities that may raise export control compliance issues such as:

1. Providing services (such as training) to foreign persons/entities (ORSP)

2. Academic Travel (Academic Affairs)

3. Hiring a foreign national to work at UNO in a temporary, nonimmigrant status (H-1B, H1B1, L-1 and O-1A) (OISS)

4. Equipment – IR Camera, Advanced Computer Chips, etc.
   Software – Encryption, Commercial Package (Oracle), etc.

Departmental procedures have been developed to identify potential export control issues in these areas.

THE UNIVERSITY *of* NEW ORLEANS

Export Control
Policies and Procedures at UNO

UNO policies and procedures for export control matters are set forth in the following policy documents:

UL System PPM-16: EXPORT CONTROL

http://www.ulsystem.net/assets/docs/searchable/boards/M- (16) Export Control.pdf

UNO - AP-RE-05.2 - Compliance with Export Control Laws and Regulations

http://www.uno.edu/president/administrative-policies/

Employees are expected to be familiar with and to comply with these policies and procedures.

Failure to do so may result in **severe** civil and/or criminal penalties for the **individual** including substantial fines, imprisonment and debarment from government contracting and substantial fines and debarment from government contracting for the University.

THE UNIVERSITY *of* NEW ORLEANS

Export Control for Research Faculty and Staff

This is a very general overview of U.S, export control regulations and how they can impact various University – related activities.

Research faculty and staff will be expected to attend a more detailed discussion of the UNO export control policies and procedures.

THE UNIVERSITY *of* **NEW ORLEANS**

Whom to Contact:

Export Control regulations are comlex and subject to frequent change. If you have questions about wether a particular activity raises export control issues, you are encouraged to contact:

Facility Security Officer

1   OTMC@uno.edu
    (504) 280-3943

The Office of Research and Sponsored Programs

2   vpresearch@uno.edu
    (504) 280-6836

THE UNIVERSITY *of* **NEW ORLEANS**