Export Controls at ISU

Brooke Langlitz
Director
Office of Research Integrity

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What is an Export?

- An actual shipment or transmission of items out of the United States, or
- Release of technology or encryption software to a foreign national in the United States

- Shipment or transmission Methods:
  - Package
  - Email
  - Letter
  - Speaking at a conference
  - Phone Conversation
Key issues for universities

- Release of technology or source code to foreign nationals in the U.S.
- Releases that are excluded from export control regulations
- Operation, installation, maintenance, repair, overhaul and refurbishing of equipment
- Encryption Software Development
Release of technology or source code to foreign nationals in the U.S.

- “Technology” is information that is necessary to develop, make, or use a controlled item.
- Releasing the technology or source code to a foreign national in the U.S. is considered an export to the home country of the foreign national.
- These releases are called “Deemed Exports”
Release of technology or source code to foreign nationals in the U.S., cont.

- Rule applies to a foreign or visiting faculty, research assistants, and students
  - Can affect tours of laboratories
  - Phone calls, emails, visual inspections
- Does not apply to U.S. Citizens, permanent residents and those with U.S. asylum protection
Releases that are excluded from export control regulations

- Publicly available information is exempted
  - Public domain
- Published Information and Software
  - Generally accessible to the public
    - Publication, patent, presentation at an open conference
- Educational Information
  - Released by instruction in catalog courses
- Limited to domestic “deemed” exports
- Does not exempt actual exports, or export of items (other than recorded or stored data)
Exclusions can be lost if...

- ISU accepts restrictions on the publication of the results of the project
  - Pertains to many industry contracts and testing agreements
  - ISU allows up to 120 days for a funding organization to review a publication to remove proprietary or confidential information. If funding organization has authority to approve publications, ISU loses the exclusion.

- ISU accepts that certain foreign nationals will not be allowed to work on the project
Exclusions can be lost if... cont.

- If ISU has made a “side deal” with the sponsor
  - Could take place via a non-disclosure agreement or acceptance of export-controlled information
  - Verbal agreements to not publish
- Any proprietary data that a partner organization sends to the university is subject to export controls, even when an exclusion protects the results of university research.
Equipment “Use”

- Operation, installation, maintenance, repair, overhaul and refurbishing of controlled equipment by a foreign national may require a license even if an exclusion is applicable.
  - A foreign national can operate controlled equipment so long as it does not meet every element of “Use”.
- Note that for military equipment, a license may be required for any access.
Encryption Software

- Software that is provided to the public for free may not require licenses, but proprietary encryption software of controlled technology could require licensing.
- Encryption technology could require license or could be prohibited for transfers to certain persons and countries.
Contact Export Controls

Office of Research Integrity

• Brooke Langlitz, 294-7793
• Matt House, 294-0269
• Email: export@iastate.edu
• Website: http://www.vpresearch.iastate.edu/en/office_of_research_integrity/export_controls/