

# **Export Controls at ISU**

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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

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