Export Controls

For Research Administrators

Presented by:
Office of Sponsored Projects
Agenda – Export Controls

- Key Terms
- Regulatory Scheme
- Policy Implications
- Role of PI
- Role of Administrator
- Resources
Key Terms

- What are Export Control Laws?
  - Laws and regulations which prohibit the unlicensed “export” of certain technologies (information, software, and items) to foreign entities.
  - Export controls apply to all activities at Yale, not just research.
An export is defined as:

- A shipment of controlled articles or items outside of the U.S.
- The release, transmission or disclosure of information (controlled software, technology, or data) to any foreign entity in the U.S. (a “deemed export”) or outside the U.S.
  - By email, telephone, website, visual inspection or other form of communication
- Use or application of controlled technology for the benefit of a foreign entity
Key Terms

Export examples:

- Sending advance telecommunications hardware to a company located in Turkey.
- Taking a laptop on an international trip
- Faxing blueprints detailing how to construct a biological fermenter to a faculty researcher in Japan.
- Emailing technical information related to a piece of equipment, such as a technical manual, to a graduate student from South Korea working in a lab at Yale (the “deemed export”).
Key Terms

What is a deemed export?

- The transfer or disclosure by any means...
  - of information or technical data concerning export controlled items, software or information
  - to a foreign entity (this includes foreign nationals)
  - in the U.S. (including on the Yale Campus)
The Fundamental Research Exclusion (FRE)

- Excludes from the export control laws basic and applied research in science and engineering...
- The results of which ordinarily are published and shared broadly within the scientific community.
  - As distinguished from proprietary research and from industrial development design, production, and product utilization.
  - NIH, NSF, vast majority of research at Yale is fundamental.
  - Applies only to information resulting from the research and not to tangible articles.
Key Terms

- **The Fundamental Research Exclusion (FRE)**
  - Applies to most research conducted at Yale
  - However, if Yale accepts awards with the following terms and conditions, the FRE may not apply:
    - Prohibition of participation of foreign nationals in the research, (e.g., some NASA awards).
    - Requirement for the approval of publications or that research results and data generated in the conduct of the research are treated as confidential.
Regulatory Scheme

- Export Administration Regulations (EAR)
  
  - Covers technologies, commodities and software with both a commercial and military application found on the CCL, hence the phrase “dual use”. Most applicable to Yale.
    - Commerce Control List categories (CCL)
    - 0 = Nuclear materials, facilities and equipment, and miscellaneous items
    - 1 = Materials, Chemicals, Microorganisms and Toxins
    - 2 = Materials Processing
    - 3 = Electronics
    - 4 = Computers
    - 5 = Telecommunications and Information Security
    - 6 = Sensors and Lasers
    - 7 = Navigation and Avionics
    - 8 = Marine
    - 9 = Propulsion Systems, Space Vehicles, and Related Equipment
Office of Foreign Assets Control (OFAC)

- Enforces sanctions applied to specified transactions with specified users/countries such as terrorists, international narcotics traffickers and those engaged in the proliferation of weapons of mass destruction.

- Restricts transactions with Cuba, Iran, Syria, North Korea, and Crimea (Russia-Ukraine), most heavily. Also includes the Balkans, Belarus, Burundi, Central African Republic, Congo, Iraq, Lebanon, Libya, Somalia, Venezuela, Yemen and Zimbabwe, even those in the nature of an academic collaboration.

- Without a license from the U.S. may prohibit payments or providing anything of “value” to nationals of sanctioned countries and some specified entities/individuals.

- Yale uses screening software to check against Gov’t lists to prevent Yale from entering into a prohibited transactions.
Why is knowing about export controls important?

- A large number of foreign students and researchers conduct research at Yale.
- Information whether by visual inspection, verbal disclosure by cell phone, web sites, or email is easy to transfer and hard to monitor.
- External parties may be providing information to Yale researchers which are subject to export controls.
- Yale policy prohibits any restrictions on the participation of foreign students, faculty, and researchers in the research enterprise.
Policy Implications for Yale

- Why is knowing about export controls important? *(continued)*
  - There is potential for personal and criminal liability for violating the EAR and OFAC
  - PIs can help ensure that the University avoids being debarred and/or suspended from government contracting
  - PIs play a part in the protection of Yale’s reputation
Role of PI

- Be aware that interactions with foreign collaborators or the shipment of items, software or information outside the U.S. might require:
  - A license
  - Prevent foreign students, staff, faculty from participating in research
  - Prevent researchers from sending controlled materials, items equipment to foreign countries proposal

- If submitting a sponsored project proposal, complete all the compliance questions on the TranSum or Regulatory Form

- Review with OSP award documents where a sponsor has imposed
  - Publication restrictions
  - Access and participation restrictions
Guidance on Export Controls and Electronic Devices in International Travel

NOTE: When selecting associated countries, all OFAC sanctioned countries [The Balkans (Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Macedonia, Montenegro, Romania, Serbia), Belarus, Burundi, Cuba, Congo, Iran, Iraq, Liberia, Libya, Lebanon, North Korea, Somalia, Sudan, Syria, Venezuela, Yemen and Zimbabwe] are identified with an asterisk (*). NOTE: If the project involves any interaction with people or institutions in Cuba, Iran, North Korea, Sudan, Russia-Ukraine-Crimea or Syria, you must contact the Director, Export Controls Licensing at 203-785-3817 or donald.deyo@yale.edu.

1
* Will this project involve the transfer of or provision for equipment, materials, data, software, confidential information or services outside the US? Yes ☐ No ☐

1a
To a collaborator named in the proposal? Yes ☐ No ☐

Select Country

1b
* To a collaborator NOT named in the proposal? Yes ☐ No ☐

Select Country

1c
* To a subrecipient? Yes ☐ No ☐

Select Country Subrecipient Name

2
* Will this project involve any foreign travel, especially foreign travel with a laptop, computer or other electronic devices? Yes ☐ No ☐

Select Country Travel with a laptop, computer or other electronic device?

3
* Did the solicitation RFP, RFQ, RFA and/or discussions with the sponsor indicate potential use or involvement of publication restrictions or export-controlled items or information? Yes ☐ No ☐

4
* Does solicitation (FOA, RFA, RFP, RFQ, etc.) include data security requirements, e.g., FERPA, FISMA, HIPAA or Privact Act? Yes ☐ No ☐

If yes, see Yale Research Policies for additional information.
Role of Administrator

- **What specifically can administrators do?**
  - Alert OSP of an identified export control issue on the TranSum or PD Regulatory Form
  - Review award documents with PIs for:
    - Publication restrictions
    - Access and participation restrictions
  - Be aware of the export control laws when:
    - Scheduling travel
    - Ordering/shipping
    - Appointing foreign nationals
    - International payments
OSP Export Controls Contact

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Export Controls Resources

- The Office of Sponsored Projects: [Export Controls website](#)
- The Office of Sponsored Projects: [Guidelines on Export Controls](#)
- The Office of Research Administration: [Guidelines on Export Controls](#)
- Visit the Yale University [International Toolkit FAQs](#) website for additional information
Questions?