

# Overview of U.S. Export Controls and Embargoes

March, 2014

# The Rationale For Export Controls

- Developed countries have a common interest in controlling the international movement of arms, munitions, weapons of mass destruction, missile technology, nuclear reactor fuel and components, select agents, and certain advanced technologies
- Export Control laws and regulations are some of the tools used by the U.S. to comply with its international agreements and to meet its national security goals

# Do Export Controls Apply to the HSC ?



Export control laws and regulations apply to everyone in the U.S. and to U.S. persons anywhere in the world

# Risk for Violations

- Civil penalties up to \$500,000 per violation
- Federal felony – fines and imprisonment
- Debarment from federal contracting



# Common Examples of Exports



- **Physical:** Sending or taking controlled equipment out of the U.S. for a research project



- **Deemed Export:** Discussing controlled technical data with a foreign citizen, whether in U.S. or abroad



- **Electronic/Voice:** Sending controlled technical data out of the U.S. by email, text, fax, etc.

Any of these are likely to require a Technology Control Plan and a license from the Federal government

# Foreign Travel

Anything that is hand-carried, packed in luggage, or shipped out of the U.S. is an export!



There are license exemptions for “tools of trade” that cover most items.

# Common Examples of Controlled Items

- Anything with an obvious military use
- Anything intended for use in space, space launch, or for ground control of space craft or satellites
- Nuclear reactor technology and materials
- Advanced composite materials
- Encryption software and devices (other than common, “off the shelf” such as required on HSC-owned devices)
- Sonar, radar, lidar, laser, GPS, advanced computers, advanced computer technology and software, thermal imaging cameras
- Advanced electronics, components, and technology
- Select agents

# Rule of Thumb

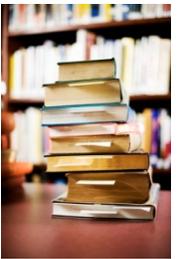
- Is it expensive?
- Is it cutting edge?
- Is it custom designed or built?
- Is it for military, space, or aerospace?
- Does it use or enable encryption?

If so, it is probably export controlled!

# What is not controlled?



- Information and technology arising during or as a result of Fundamental Research\* in science and engineering



- Information presented in a catalog course (including associated teaching labs)
- Information that has been published and is generally available to the public

\*see definition in next slide

# What Exactly is “Fundamental Research”?

- Basic and applied research in science and engineering, the results of which ordinarily are published and shared broadly with the scientific community
  - No restrictions on publication
  - No restrictions on the use of foreign citizens
  - No specific national security controls on the research or results

# EXAMPLE:

## Publication Restriction

### DISCLOSURE OF INFORMATION (DEC 1991)

- (a) The Contractor **shall not release** to anyone outside the Contractor's organization any unclassified information, regardless of medium (e.g., film, tape, document), pertaining to any part of this contract or any program related to this contract, unless—
- (1) The Contracting Officer has given prior written approval; or
  - (2) The information is otherwise in the public domain before the date of release.
- (b) **Requests for approval** shall identify the specific information to be released, the medium to be used, and the purpose for the release. The Contractor shall submit its request to the Contracting Officer at least 45 days before the proposed date for release.

EXPORT LICENSE LIKELY TO BE REQUIRED

# Example:

## Specific National Security Control

“Although the intent for the basic research is to be unclassified, each Fellow must be able to obtain and maintain a Department of Defense security clearance...Fellows must be granted and maintain a final Secret clearance to receive program funding.”

EXPORT LICENSE LIKELY TO BE REQUIRED

# Exemptions Common to HSC

- Fundamental Research: No restrictions on working with foreign research assistants or collaborators – free to publish and discuss
- Catalog Courses and Teaching Labs: No restrictions on information presented
- Published and Publically Available: No restrictions on working with foreign nationals using information that is published and in the public domain



# Remember!

- Tangible items are **always subject to** control. Sending or taking equipment, devices, machines, software, or any other tangible item out of the country is an export and may require a license or license exception
- Normal operation of equipment allowed but if equipment “controlled” then access to information by foreign persons about design, source codes, etc. could be problematic.

# Export Controls: U.S. and International Sanctions

- Cuba, Iran, North Korea, Sudan, and Syria are subject to comprehensive sanctions
  - No exports to those countries
  - No travel to these countries (with certain exceptions for Cuba)
  - Significant restrictions on collaborating with researchers in those countries
- The five countries above and several others are subject to sanctions that prohibit export of all military items and technology as well as certain commercial items and technologies

# There are also embargoes to consider

The transfer of items/services of value to embargoed countries is prohibited. Examples:

- payments or providing anything of value to sanctioned countries, nationals of some countries and specified entities/individuals
- travel to and other activities with embargoed countries and individuals/entities even when exclusions/exemptions for export controls apply

# Embargoes: Sanctioned Countries

- Balkans
- Belarus
- Burma
- Cote d'Ivoire
- Cuba
- Congo
- Iran
- Iraq
- Lebanon
- Liberia
- Libya
- North Korea
- Somalia
- Sudan
- Syria
- Zimbabwe

# What about visa requirements?

- Work authorization visa applications such as H-1B, H-1B1, and O-1 require certification for potential export control issues.
- HSC Export Control Certification form will provide information regarding the employment circumstances of a particular individual.

# Questions about export controls?

- The Office of Sponsored Programs can assist you. Contact them at 567-2340 or via email at [grants@uthscsa.edu](mailto:grants@uthscsa.edu).
- Questions about visa requirements should be addressed to the Office of International Services at 5677-6241 or via email at [international@uthscsa.edu](mailto:international@uthscsa.edu)