**Export Control Fact Sheet**

What is an Export?
- Transfers of controlled information, including technical data, to persons and entities outside the U.S.
- Shipment of controlled physical items, such as scientific equipment, that require export licenses from the U.S. to a foreign country.
- Verbal, written, electronic, and/or visual disclosures of controlled scientific and technical information related to export controlled items to foreign nationals ("deemed exports") in the U.S.

How are these exports controlled?

**Regulations:**
- Export control regulations have been in existence since the 1940s.
- The main regulations are:
  - Export Administration Regulations (EAR).
  - International Traffic in Arms Regulations (ITAR).
  - Office of Foreign Assets Control (OFAC)
- EAR is implemented by the Dept. of Commerce.
- ITAR is implemented by the State Department.
- OFAC is implemented by the Treasury Department.
- These regulations control the export by requiring a license first.
- The export control regulations exist to:
  - limit the military potential of U.S. adversaries
  - prevent proliferation of weapons of mass destruction
  - advance U.S. foreign policy goals
  - protect U.S. economy and promote trade goals

**Items controlled by regulations:**
- Exports controlled by the EAR are not inherently military in nature ("dual use")
- Exports controlled by ITAR are inherently military
- EAR regulates goods and technology on the Commodity Control List (CCL)
- The CCL covers ten topical categories and a "catch-all" category
- Examples of CCL categories includes electronics, microorganisms and toxins, computers, lasers and sensors, propulsion systems
- ITAR regulates defense articles, defense services and technical data listed on the U.S. Munitions List (USML)
- Some USML categories are specific, e.g., spacecraft systems (which includes GPS with certain characteristics), but in general the USML lacks the specificity of the CCL
- Examples of defense articles on the USML include specified chemical agents, cameras designated for military purposes, etc.
- Defense services means furnishing assistance (including training) to foreign nationals related to defense articles and furnishing controlled "technical data"
- Technical data means information for design, development, production, operation, testing or maintenance of defense articles.

How do these export control laws affect universities?

- May require that the university obtain a license from the Commerce or State Department before exporting
- Violations of these laws can result in criminal penalties (including fines and/or prison sentences for individuals) and civil sanctions, and may affect future research opportunities
- There are some "safe harbor" provisions that exempt universities from obtaining a license to export
- No license needed to disclose <u>technical information</u> to foreign nationals in the U.S. ("deemed exports") in classes or laboratories, at conferences or in publications, or to other countries if the information is
  - in the <u>public domain;</u>
  - generated through <u>fundamental research</u> in science and engineering at accredited institutions of higher learning in the U.S. where the resulting information is ordinarily published and shared broadly in the scientific community; or
  - involves "<u>educational information</u>" (i.e., information released by instruction in catalog courses and associated teaching laboratories at academic institutions in the U.S., other than for certain encrypted software).
- Information is in the public domain, if, in part, it is published and generally accessible to the public through unlimited and unrestricted publication
- Fundamental research is research that is carried out openly and without restrictions on publication or access to or dissemination of the research results
- <u>Controlled equipment, encrypted software, chemicals, biological agents and toxins, and other articles or services on lists referenced above generally can not be exported abroad without a license.</u>

How does Case comply with export control regulations?

- Educational programs for faculty and staff
- Review RFPs for Export Control language
- Checklist on University Review Form
- Distribute follow-up Export Control Questionnaire as necessary
- Review terms and conditions associated with grants and contracts to ensure that fundamental research exemption is not compromised
- Notify PIs when export control restrictions apply to sponsored research
- Obtain export license when necessary